



OROVILLE CITY COUNCIL

Council Chambers
1735 Montgomery Street
Oroville, CA. 95965

January 02, 2024
REGULAR MEETING
CLOSED SESSION 4:00 PM
OPEN SESSION 4:30 PM
AGENDA

PUBLIC ACCESS AND PARTICIPATION

Please review the options below for ways to participate or observe the Council Meetings.

To Observe the Meeting:

1. Live Feed: <https://www.youtube.com/channel/UCAoRW34swYl85UBfYqT7IbQ/>
2. Zoom Link: <https://zoom.us/j/96870319529?pwd=dW9kMGRZSFo5MFFNQk5wVDUzRkRrZz09>
3. Zoom Application: Meeting ID: 968 7031 9529 Passcode: 67684553
4. By Phone: Telephone: 1-669-900-6833 Meeting ID: 968 7031 9529 Passcode: 67684553

To Provide Comment to the Council:

1. Attend the meeting in person
2. Send an Email by 2:00 PM the day of the meeting to publiccomment@cityoforoville.org. All comments emailed will be provided to the Council Members for their consideration.

If you would like to address the Council at this meeting, you are requested to complete the blue speaker request form (located on the wall by the agendas) and hand it to the City Clerk, who is seated on the right of the Council Chamber. The form assists the Clerk with minute taking and assists the Mayor or presiding chair in conducting an orderly meeting. Providing personal information on the form is voluntary. For scheduled agenda items, please submit the form prior to the conclusion of the staff presentation for that item. Council has established time limitations of three (3) minutes per speaker on all items and an overall time limit of thirty minutes for non-agenda items. If more than 10 speaker cards are submitted for an item, the time limitation would be reduced to one and a half (1.5) minutes per speaker for that item. If more than 15 speaker cards are submitted for non-agenda items, the first 15 speakers will be randomly selected to speak at the beginning of the meeting, with the remaining speakers given an opportunity at the end. **(California Government Code §54954.3(b)). Pursuant to Government Code Section 54954.2, the Council is prohibited from taking action except for a brief response from the Council or staff to statements or questions relating to a non-agenda item.**

CALL TO ORDER / ROLL CALL

Council Members: Tracy Johnstone, Krysi Riggs, Scott Thomson, Janet Goodson, Shawn Webber,
Vice Mayor Eric Smith, Mayor David Pittman

CLOSED SESSION

The Council will hold a Closed Session on the following:

1. Pursuant to Government Code Section 54957.6, the Council will meet with the Personnel Officer and City Attorney to discuss labor negotiations related to the following bargaining units: Oroville Police Officers Association - Sworn and Non-Sworn.

OPEN SESSION

1. Announcement from Closed Session
2. Pledge of Allegiance
3. Adoption of Agenda

PRESENTATIONS AND PROCLAMATIONS

1. Resolution Recognizing Eric Smith and the Oroville Chamber of Commerce

The City Council may consider adopting Resolution No. 9205 entitled "Resolution Recognizing Eric Smith and the Oroville Chamber of Commerce".

ACTION REQUESTED -

ADOPT RESOLUTION NO. 9205.

PUBLIC COMMUNICATION – HEARING OF NON-AGENDA ITEMS

This is the time to address the Council about any item not listed on the agenda. If you wish to address the Council on an item listed on the agenda, please follow the directions listed above.

REPORTS / DISCUSSIONS

1. Council Announcements and Reports
2. Administration Reports

CONSENT CALENDAR

[Consent calendar items are adopted in one action by the Council. Items that are removed will be discussed and voted on immediately after adoption of consent calendar items.](#)

1. Consider and Adopt the Side Letter Agreements Between the City of Oroville and the Oroville City Employee's Association, Oroville Management Association, Oroville Police Officer's Association Both Sworn And Non-Sworn To Extend Memorandum Of Understandings Until A New Memorandum Of Understanding Is Approved By Council Or Impasse Procedures, Including Fact-Finding If Applicable, Are Exhausted

The City Council will consider and adopt the side letter agreements between the City of Oroville and the Oroville City Employee's Association (OCEA), the Oroville Management Association (OMA), the Oroville Police Officer's Association Sworn and Non-Sworn (OPOA-S) (OPOA-NS).

ACTION REQUESTED -

ADOPT RESOLUTION NO'S. 9206, 9207, and 9208 - RESOLUTIONS OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE SIDE LETTER AGREEMENTS WITH THE OROVILLE CITY EMPLOYEE'S ASSOCIATION, OROVILLE MANAGEMENT ASSOCIATION, OROVILLE POLICE OFFICER'S ASSOCIATION BOTH SWORN AND NON-SWORN UNITS.

REGULAR BUSINESS

[HYPERLINK "appIS70b961b4fe184de9bb4fa0fd101f128a"](#) **1. Appointment of Vice Mayor for 2024**

The Council will select the Vice Mayor of the Oroville City Council for 2024.

ACTION REQUESTED -

THE CITY COUNCIL WILL LEAVE THE CURRENT VICE MAYOR IN PLACE;

OR

NOMINATION AND APPOINTMENT OF A NEW VICE MAYOR BY AT LEAST FOUR

MEMBERS OF THE CITY COUNCIL.

2. Council Appointment to Committees, Commissions and Boards

The Mayor may appoint Council Members to various Committees, Commissions and Boards or leave assignments the status quo. Once the Mayor has made these assignments, the Council will vote to confirm the assignments.

ACTION REQUESTED -

MAYOR ASSIGN COUNCIL MEMBERS TO VARIOUS ASSIGNMENTS, DISCUSS ASSIGNMENTS AND VOTE TO CONFIRM OR DENY ASSIGNMENTS.

3. Mobile and Fixed Surveillance Systems

The Council will consider accepting bids for the purchase or lease of a mobile surveillance trailer and fixed cameras. The Council will provide staff direction on the purchase or lease of a mobile surveillance trailer and fixed cameras.

ACTION REQUESTED -

ACCEPT BIDS FROM LIVE VIEW TECHNOLOGIES AND RECON VIEW AND AUTHORIZE THE CITY ADMINISTRATOR TO ENTER INTO A ONE-YEAR LEASE AGREEMENT WITH LIVE VIEW TECHNOLOGIES (LVT) FOR A MOBILE SURVEILLANCE TRAILER IN AN AMOUNT NOT TO EXCEED \$45,000.00

DIRECT STAFF TO RETURN TO COUNCIL WITH ANY ADDITIONAL PURCHASES OR LEASES FROM THESE PROPOSALS AS NECESSARY.

OR

PROVIDE STAFF WITH ALTERNATIVE DIRECTION.

4. Employment Agreement Between The City of Oroville and Jess Darnell

The Council will consider an employment agreement between the City of Oroville and Jess Darnell for the position of Assistant Chief of Police for the City of Oroville.

ACTION REQUESTED –

ADOPT RESOLUTION NO. 9209 - A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN EMPLOYMENT AGREEMENT BETWEEN THE CITY OF OROVILLE AND JESS DARNELL TO SERVE AS ASSSITANT CHIEF OF POLICE – (Agreement No. 3489).

5. Employment Contract Amendment with Ruth Duncan, Director, Finance

The Council will consider an amendment to the employment contract with Ruth Duncan, Director, Finance.

ACTION REQUESTED -

ADOPT RESOLUTION NO. 9210 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF OROVILLE AND RUTH DUNCAN – (AGREEMENT NO. 3093-3).

6. Employment Contract Amendment with Ron Belser, Director, Code Enforcement

The Council will consider an amendment to the employment contract with Ron Belser, Director, Code Enforcement.

ACTION REQUESTED -

ADOPT RESOLUTION NO. 9211 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF OROVILLE AND RONNIE BELSER – (AGREEMENT NO. 3400-1).

7. Council Member Compensation – Senate Bill 329

Current Council Member Compensation is set by City Charter. In addition, Council Members are currently provided a stipend memorialized in the City wide Salary Schedule. Senate Bill 329 increases the limits for City Council member compensation. The Council is being asked to consider this change and provide direction to staff.

ACTION REQUESTED -

PROVIDE DIRECTION TO STAFF.

8. Approve Material Pre-Purchase Agreements For Hewitt Park and Project Update

Staff is seeking Council approval to pre-purchase materials for the park in an effort to save more than \$100,000 in project funding and is providing an update to the Hewitt Park project.

ACTION REQUESTED -

APPROVE THE PRE-PURCHASE OF MATERIALS AND EQUIPMENT AS DEEMED NECESSARY FOR THE PROJECT IN AN EFFORT TO REDUCE COSTS.

PUBLIC HEARINGS

The Public Hearing Procedure is as follows:

- Mayor or Chairperson opens the public hearing and staff will present the item and answer Council questions.
- The hearing is opened for public comment limited to three (3) minutes per speaker. In the event of more than ten (10) speakers, time will be limited to one and a half (1.5) minutes. Under Government Code 54954.3, the time for each presentation may be limited.
- Speakers are requested to provide a speaker card to the City Clerk
- Public comment session is closed and then the Council will debate and take action
- Those wishing to speak at the public hearings below, but unable to attend before 5pm, may request that the council consider holding the public hearing after 5pm by emailing cityclerk@cityoforoville.org or calling 530-538-2535. Please submit request 24 hours before the meeting.
- Individuals may email comments for council consideration to publiccomment@cityoforoville.org

9. First Reading of Zoning Code Amendment (ZC) 23-02 Adding Section 17.12.120 to the Oroville Municipal Code (OMC) Establishing Regulations for Al Fresco Dining and Al Fresco Seating, And Amending Section 17.12.070 (Parking), 17.32.010 (Allowed Uses In Commercial Districts), 17.34.020 (Allowed Uses In Mixed-Use Districts), and 12.04.030 (Placing Produce, Merchandise, Etc., n Streets and Sidewalks)

The Council will consider adopting ZC 23-02, establishing regulations and standards for al fresco dining and al fresco seating in commercial and mixed-use districts within the City. ZC 23-02 would add Section 17.12.120 to the Oroville Municipal Code (OMC), amend Section 17.12.070 pertaining to parking standards for businesses proposing al fresco dining areas, amend Sections 17.32.010 and 17.34.020 by adding al fresco dining and seating areas as a Use-Specific Regulation in Commercial and Mixed-Use Districts, and amend Section 12.04.030 to allow the placement of dining and seating areas in the public right-of-way.

ACTION REQUESTED -

WAIVE FIRST READING AND APPROVE ORDINANCE NO. 1876 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OROVILLE ADOPTING ZC 23-02 AND AMENDING THE OROVILLE MUNICIPAL CODE BY ADDING SECTION 17.12.120 ESTABLISHING REGULATIONS AND STANDARDS FOR AL FRESCO DINING AND AMENDING SECTION 17.12.070 "PARKING," SECTION 17.32.010 "ALLOWED USES IN COMMERCIAL DISTRICTS," SECTION 17.34.020 "ALLOWED USES IN MIXED-USE DISTRICTS," AND SECTION 12.04.030 "PLACING PRODUCE, MERCHANDISE, ETC., ON STREETS AND SIDEWALKS"

AND

ADOPT RESOLUTION NO. XXXX AMENDING THE CITY'S MASTER SCHEDULE OF USER AND REGULATORY FEES BY ADDING AL FRESCO SEATING AREA PERMIT TO THE PLANNING FEES

10. First Reading Of Zoning Code Amendment (ZC) 23-03, Amending Section 17.12.060 (Tree Preservation), Section 17.12.065 (Oak Tree Loss Mitigation) And Section 17.48.070 (Tree Removal Permits) Of The Oroville Municipal Code (OMC)

The Council will consider adopting ZC 23-03, amending the City's oak tree loss mitigation standards, requirements, and applicability as found in Section 17.12.065 of the Oroville Municipal Code (OMC). ZC 23-03 would also amend Section 17.12.060 pertaining to tree preservation requirements and Section 17.48.070 pertaining to the City's tree removal permit requirements.

ACTION REQUESTED -

WAIVE FIRST READING AND APPROVE ORDINANCE NO. 1877 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OROVILLE AMENDING SECTION 17.12.060 "TREE PRESERVATION", SECTION 17.12.065 "OAK TREE LOSS MITIGATION", AND SECTION 17.48.070 "TREE REMOVAL PERMITS"

AND

ADOPT RESOLUTION NO. 9213 AMENDING THE CITY'S MASTER SCHEDULE OF USER AND REGULATORY FEES BY ADDING AN OAK TREE MITIGATION IN-LIEU FEE TO THE PLANNING FEES

PUBLIC COMMUNICATION - HEARING OF NON-AGENDA ITEMS

This is the time to address the Council about any item not listed on the agenda. If you wish to address the Council on an item listed on the agenda, please follow the directions listed above.

FUTURE AGENDA ITEMS / CORRESPONDENCE

1. Future Agenda Items
2. Correspondence

i. Notice of Pacific gas and Electric Company's Request to Increase Rates in Its 2023 Wildfire Mitigation and Catastrophic Events Application (A.23-12-001)

ADJOURN THE MEETING

The meeting will be adjourned. A regular meeting of the Oroville City Council will be held on MONTH xx, 20xx at 4:00 p.m.

Accommodating Those Individuals with Special Needs – In compliance with the Americans with Disabilities Act, the City of Oroville encourages those with disabilities to participate fully in the public meeting process. If you have a special need in order to allow you to attend or participate in our public meetings, please contact the City Clerk at (530) 538-2535, well in advance of the regular meeting you wish to attend, so that we may make every reasonable effort to accommodate you. Documents distributed

for public session items, less than 72 hours prior to meeting, are available for public inspection at City Hall, 1735 Montgomery Street, Oroville, California.

Recordings - All meetings are recorded and broadcast live on cityoforoville.org and YouTube.

Resolution Recognizing Eric Smith and the Oroville Chamber of Commerce

Resolution No. 9205

WHEREAS, the City of Oroville acknowledges the invaluable contributions of dedicated individuals and organizations that play a pivotal role in enhancing the community's prosperity and well-being; and

WHEREAS, Eric Smith through his role at the Oroville Chamber of Commerce (Chamber) has demonstrated exemplary leadership, unwavering commitment, and tireless efforts in serving the residents of Oroville, contributing significantly to the City's growth and development; and

WHEREAS, Eric Smith's vision, dedication, and collaborative approach have positively impacted various community events (Salmon Festival, Fourth of July Fireworks, Holiday Light Parade to name a few), which showcase the diversity and richness of Oroville, and contribute to the overall well-being and prosperity of the community; and

WHEREAS, the Oroville Chamber of Commerce, under Eric’s leadership, has been a driving force in promoting economic development, supporting local businesses, and helping to create a vibrant and sustainable local economy.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Oroville hereby expresses its sincere gratitude and appreciation to Eric Smith for his outstanding service, leadership, and dedication through his role at the Chamber; and

BE IT FURTHER RESOLVED that the City Council extends its heartfelt recognition to the Oroville Chamber of Commerce for its instrumental role in promoting economic vitality, fostering community engagement, and enhancing the quality of life for residents in Oroville;

ADOPTED AND PASSED this 2nd day of January 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

Attest:

Kayla Reaster, Assistant City Clerk

David Pittman, City of Oroville Mayor



CITY OF OROVILLE STAFF REPORT

TO: MAYOR PITTMAN AND COUNCIL MEMBERS

FROM: LIZ EHRENSTROM, HUMAN RESOURCE MANAGER

RE: CONSIDER AND ADOPT THE SIDE LETTER AGREEMENTS BETWEEN THE CITY OF OROVILLE AND THE OROVILLE CITY EMPLOYEE’S ASSOCIATION, OROVILLE MANAGEMENT ASSOCIATION, OROVILLE POLICE OFFICER’S ASSOCIATION BOTH SWORN AND NON-SWORN TO EXTEND MEMORANDUM OF UNDERSTANDINGS UNTIL A NEW MEMORANDUM OF UNDERSTANDING IS APPROVED BY COUNCIL OR IMPASSE PROCEDURES, INCLUDING FACT-FINDING IF APPLICABLE, ARE EXHAUSTED

DATE: JANUARY 2, 2024

SUMMARY

The City Council will consider and adopt the side letter agreements between the City of Oroville and the Oroville City Employee’s Association (OCEA), the Oroville Management Association (OMA), the Oroville Police Officer’s Association Sworn and Non-Sworn (OPOA-S) (OPOA-NS) extending the term of the existing Memorandum of Understanding with each labor organization.

DISCUSSION

Staff recommend that the Council approve extensions of the Memorandum of Understanding (MOU) with the Oroville City Employee’s Association (OCEA), the Oroville Management Association (OMA) and the Oroville Police Officer’s Association Sworn and Non-Sworn (OPOA-S) (OPOA-NS). The City and the labor organizations are in the middle of negotiations at this time, and staff recommend extending their MOU’s until such time as a new memorandum of understanding is approved by the City Council or impasse procedures, including fact-finding if applicable, are exhausted.

FISCAL IMPACT

None

RECOMMENDATION

Adopt Resolution No’s. _____ - RESOLUTIONS OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE SIDE LETTER AGREEMENTS WITH THE OROVILLE CITY EMPLOYEE’S ASSOCIATION, OROVILLE MANAGEMENT ASSOCIATION, OROVILLE POLICE OFFICER’S ASSOCIATION BOTH SWORN AND NON-SWORN UNITS.

ATTACHMENTS

Resolution No. _____
OCEA Side Letter Agreement

Resolution No. _____
OMA Side Letter Agreement

Resolution No. _____
OPOA Sworn and Non-Sworn Side Letter Agreement

**SIDE LETTER AGREEMENT
TO THE
MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF OROVILLE
AND
THE OROVILLE CITY EMPLOYEES' ASSOCIATION**

Item 1.

EFFECTIVE JANUARY 1, 2024

Pursuant to the Meyers-Milias-Brown Act ("MMBA"), this Side Letter Agreement is entered into on January 2, 2024, between the City of Oroville ("City") and the Oroville City Employees' Association herein referred to as ("OCEA").

It is understood and agreed that the specific provisions contained in this Side Letter Agreement shall supersede any previous agreements, whether oral and written, regarding the matters contained herein. The parties have met and conferred in good faith and the OCEA and the City agree as follows:

The parties have agreed to extend the memorandum of understanding between the Oroville City Employee's Association and the City of Oroville until a new successor Memorandum of Understanding is ratified, with the following provisions. (See provisions below):

- Side Letter Agreement dated July 25, 2022, moving employees from Tier 2 to Tier 1 shall remain in effect until a new Memorandum of Understanding is approved by City Council or impasse procedures, including fact-finding if applicable, are exhausted.

- OCEA's MOU and all its terms shall remain in effect until a new Memorandum of Understanding between the City of Oroville and the Oroville City Employee's Association is approved by City Council or impasse procedures, including fact-finding if applicable, are exhausted.

Both parties agree to the above provisions.

OROVILLE CITY EMPLOYEES' ASSOCIATION

CITY OF OROVILLE

Rick Seals, OCEA President

Brian Ring, City Administrator

Date: _____

Date: _____

**SIDE LETTER AGREEMENT
TO THE
MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF OROVILLE
AND
OROVILLE MANAGER’S ASSOCIATION**

EFFECTIVE JANUARY 1, 2024

Pursuant to the Meyers-Milias-Brown Act (“MMBA”), this Side Letter Agreement is entered into on January 2, 2024, between the City of Oroville (“City”) and the Oroville Manager’s Association herein referred to as (“OMA”).

It is understood and agreed that the specific provisions contained in this Side Letter Agreement shall supersede any previous agreements, whether oral or written, regarding the matters contained herein. The parties have met and conferred in good faith and the OMA and the City agree as follows:

The parties have agreed to extend the memorandum of understanding between the Oroville Manager’s Association and the City of Oroville until a new successor Memorandum of Understanding is ratified, with the following provisions. (See highlighted provisions below):

- Side Letter Agreement dated July 25, 2022, moving employees from Tier 2 to Tier 1 shall remain in effect until a new Memorandum of Understanding is approved by City Council or impasse procedures, including fact-finding if applicable, are exhausted.
- OMA’s MOU and all its terms shall remain in effect until a new Memorandum of Understanding between the City of Oroville and the Oroville City Manager’s Association is approved by City Council or impasse procedures, including fact-finding if applicable, are exhausted.

Both parties agree to the above provisions.

OROVILLE MANAGERS’ ASSOCIATION

CITY OF OROVILLE

Gil Zarate, OMA President

Brian Ring, City Administrator

Date: _____

Date: _____

**CITY OF OROVILLE
RESOLUTION NO. 9206**

**A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND
DIRECTING THE MAYOR TO EXECUTE A SIDE-LETTER AGREEMENT BETWEEN
THE CITY OF OROVILLE AND THE OROVILLE CITY EMPLOYEES' ASSOCIATION**

(Agreement No. 1432-18)

BE IT hereby resolved by the Oroville City Council as follows:

1. The Mayor is hereby authorized and directed to execute a side-letter agreement between the City of Oroville and the Oroville City Employees' Association. A copy of the Amendment is attached hereto as Exhibit "A".
2. The City Clerk shall attest to the adoption of this Resolution.

PASSED AND ADOPTED by the Oroville City Council at a regular meeting held on January 2, 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

David Pittman, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott E. Huber, City Attorney

Brian Ring, City Clerk

**SIDE LETTER AGREEMENT
TO THE
MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF OROVILLE
AND
OROVILLE POLICE OFFICER’S ASSOCIATION
(SWORN AND NON-SWORN)**

EFFECTIVE JANUARY 1, 2024

Pursuant to the Meyers-Milias-Brown Act (“MMBA”), this Side Letter Agreement is entered into on January 2, 2024, between the City of Oroville (“City”) and the Oroville Police Officers’ Association herein referred to as (“OPOA”)(Sworn and Non-Sworn).

It is understood and agreed that the specific provisions contained in this Side Letter Agreement shall supersede any previous agreements, whether oral or written, regarding the matters contained herein. The parties have met and conferred in good faith and the OPOA and the City agree as follows:

The parties have agreed to extend the memorandum of understanding between the Oroville Police Officer’s Association, both sworn and non-sworn, and the City of Oroville until negotiations for a new successor Memorandum of Understanding are concluded, with the following provisions. (See provisions below):

- Side Letter Agreement dated July 25, 2022, moving employees from Tier 2 to Tier 1 shall remain in effect until a new Memorandum of Understanding is approved by City Council or impasse procedures, including fact-finding if applicable, are exhausted.
- OPOA’s MOU and all its terms shall remain in effect until a new Memorandum of Understanding between the City of Oroville and the Oroville Police Officer’s Association is approved by City Council or impasse procedures, including fact-finding if applicable, are exhausted.

Both parties agree to the above provisions.

OROVILLE POLICE OFFICERS’ ASSOCIATION

CITY OF OROVILLE

Joel Malinowski, OPOA Vice-President

Brian Ring, City Administrator

Date: _____

Date: _____

Kristina Wicker-Estes

Date: _____

CITY OF OROVILLE
RESOLUTION NO. 9207

A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING
THE MAYOR TO EXECUTE A SIDE LETTER AGREEMENT BETWEEN THE CITY OF
OROVILLE AND THE OROVILLE MANAGEMENT ASSOCIATION

(Agreement No. 3083-10)

BE IT HEREBY RESOLVED by the Oroville City Council as follows:

1. The Mayor is hereby authorized and directed to execute a side letter agreement between the City of Oroville and the Oroville Management Association. A copy is attached hereto as Exhibit "A".
2. The City Clerk shall attest to the adoption of this Resolution.

PASSED AND ADOPTED by the Oroville City Council at a regular meeting held on January 2, 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

David Pittman, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott E. Huber, City Attorney

Brian Ring, City Clerk

1

CITY OF OROVILLE
RESOLUTION NO. 9208

A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING
THE MAYOR TO EXECUTE A SIDE LETTER AGREEMENT BETWEEN THE CITY OF
OROVILLE AND THE OROVILLE POLICE OFFICERS' ASSOCIATION, SWORN AND
NON-SWORN

4

(Agreement No. 1447-8) (Sworn)
(Agreement No. 1448-10) (Non-Sworn)

5

6

NOW, THEREFORE, BE IT RESOLVED by the Oroville City Council as follows:

7

Section 1. The Mayor is hereby authorized and directed to execute a side-letter
agreement between the City of Oroville and the Oroville Police Officers'
Association Sworn and Non-Sworn. A copy is attached hereto as Exhibit
"A".

8

9

10

Section 2. The City Clerk shall attest to the adoption of this Resolution.

11

PASSED AND ADOPTED by the City Council of the City of Oroville at a regular
meeting on January 2, 2024, by the following vote:

12

AYES: 13

NOES: 14

ABSTAIN: 15

ABSENT: 16

17

18

David Pittman, Mayor

19

APPROVED AS TO FORM:

ATTEST:

20

21

Scott E. Huber, City Attorney

Brian Ring, City Clerk

22

23

24

25

26

27



CITY OF OROVILLE STAFF REPORT

TO: MAYOR PITTMAN AND COUNCIL MEMBERS
FROM: BRIAN RING, CITY ADMINISTRATOR
RE: APPOINTMENT OF VICE MAYOR FOR 2024
DATE: JANUARY 2, 2024

SUMMARY

The Council will select the Vice Mayor of the Oroville City Council for 2024.

DISCUSSION

The Vice Mayor is appointed by Majority Vote of the City Council.

The City of Oroville (“City”) Charter Article 8 Section 1a provides in relevant part:

“There shall be a vice mayor who shall be appointed by the city council to hold office at the pleasure of the council... The appointment and removal of the vice mayor may be made by a majority vote of the council.”

FISCAL IMPACT

None

RECOMMENDATION

1. The City Council will leave the current Vice Mayor in place;

or

2. Nomination and appointment of a new Vice Mayor by at least four members of the City Council.



CITY OF OROVILLE STAFF REPORT

TO: MAYOR PITTMAN AND COUNCIL MEMBERS

FROM: BRIAN RING, CITY ADMINISTRATOR

RE: COUNCIL APPOINTMENT TO COMMITTEES, COMMISSIONS AND BOARDS

DATE: JANUARY 2, 2024

SUMMARY

The Mayor may appoint Council Members to various Committees, Commissions and Boards for appointments expiring in January or February 2024 or leave existing assignments the status quo. Once the Mayor has made these assignments, the Council will vote to confirm the assignments.

DISCUSSION

Pursuant to Council Policy and Resolution #8813, the Mayor, with the approval of the City Council, shall make all appointments to boards, commissions, and committees unless otherwise specifically provided by statute or City Charter. The role of the Council is to advise and consent (i.e. approve or reject), however, the Council may not substitute its desired appointments for that of the Mayor. This appointment authority shall not extend to citizen appointments to the Planning Commission, the Parks Commission, the Arts Commission, or the Citizen's Oversight Committee related to Measure U, which shall be appointed by a majority vote of the Council.

The Mayor shall announce his appointments at or before a properly noticed regular or special meeting of the City Council Agenda which lists this matter as an item for action to be taken. A vote of the council shall be taken. Appointments must be approved by a majority of the council present at the meeting. Appointments shall expire each year unless otherwise announced by the Mayor prior to the appointment. The Butte County Mosquito and Vector Control appointment shall be for two or four years.

FISCAL IMPACT

None

RECOMMENDATION

Mayor assign Council Members to various assignments, discuss assignments and vote to confirm or deny assignments.

CITY OF OROVILLE COMMITTEE AND BOARD ASSIGNMENTS 2023

Item 2.



David Pittman
Eric Smith
Krysi Riggs
Janet Goodson
Tracy Johnstone
Shawn Webber
Scott Thomson

ALUC - Airport Land Use					X				1, Alt	Airport Manager
ARTS COMMISSION				A	X				1, Alt	Community Development Director
BCAG - Butte County Association of Governments	X	A							1, Alt	City Administrator or City Engineer
BCAQCB - Butte County Air Quality Control Board	A	X							1, Alt	City Administrator or Director of Community Develop
CHAMBER OF COMMERCE						X	A		1, Alt	City Administrator
Citizens Oversight Committee	X			X		A			2, Alt	Finance Director
COCC - Butte County Continuum of Care		A			X				1, Alt	Director of Community Development
EXECUTIVE COMMITTEE/ INTERGOVERNMENTAL	X	X		X					3	City Administrator
LEAGUE OF CALIFORNIA CITIES		A	X						1, Alt	City Administrator
LOAN ADVISORY HOUSING and ECONOMIC DEVEL					X	X	X		3	Business Assistance and Housing Director
ODBA - Oroville Downtown Business Association			X			A			1	PIO
ORAC - Oroville Recreation Area Committee					A	X			1, Alt	PIO
SBF - Supplemental Benefit Committee	X		X	A	X	A	A		3, 3 Alt	Program Specialist
SC-OR - Sewerage Commission Oroville Region	X						A		1, Alt	City Engineer
Wyandotte Creek - Groundwater Management		A		X					1, Alt	City Engineer
Butte County Mosquito & Vector Control		X					A		1	Director of Community Development
TOURISM			X						1	PIO
VETERAN MEMORIAL PARK							X		1	City Administrator
Oroville Dam Citizen Advisory Commission	X	X		A					1, 1 alt	City Administrator
Butte Choice Energy Authority (BCEA)		A		A		X	X		2, 2 Alt	Community Development Director
LAFCO										Appointed by BC City Selection Committee

X - Voting Member A - Alternate Member

CITY OF OROVILLE COMMITTEE AND BOARD ASSIGNMENTS 2023

Item 2.

Committee or Board	Meeting Date	Meeting Time
ALUC - Airport Land Use	3rd Wednesday	9:00 AM
ARTS COMMISSION	2nd Tuesday	4:00 PM
BCAG - Butte County Association of Governments	4th Thursday	9:00 AM
BCAQCB - Butte County Air Quality Control Board	4th Thursday	10:00 AM
CHAMBER OF COMMERCE	2nd Wednesday	3:00 PM
Citizens Oversight Committee	4th Tuesday	Quarterly
COCC - Butte County Continuum of Care	2nd or 3rd Monday	1:00 PM
EXECUTIVE COMMITTEE/ INTERGOVERNMENTAL(w/County)	As Needed	
LEAGUE OF CALIFORNIA CITIES	Various	
LOAN ADVISORY HOUSING	2nd Tuesday	10:00 AM
ODBA - Oroville Downtown Business Association	1st Thursday	9:00 AM
ORAC - Oroville Recreation Area Committee	1st Friday	10:00 AM
SBF - Supplemental Benefit Committee	4th Wednesday	2:00 PM
SC-OR - Sewerage Commission Oroville Region	4th Wednesday	5:00 PM
Wyandotte Creek - Groundwater Management	4th Thursday	2:00 PM
Butte County Mosquito & Vector Control	2nd Wednesday	4:00 PM
TOURISM	3rd Thursday	9:00 AM
VETERAN MEMORIAL PARK	3rd Monday	6:45pm
Oroville Dam Citizen Advisory board	4th Friday - Quartely	10:00 AM
Community Choice Aggregation (CCA)	1st Monday	5:30 PM
LAFCO	1st Thursday	9:00 AM

**CITY OF OROVILLE
RESOLUTION NO. _____**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
OROVILLE, CALIFORNIA ADOPTING A POLICY REGARDING
COUNCIL COMMITTEE APPOINTMENTS**

WHEREAS, it has long been held that unless a Charter of a city expressly provides for municipal control over a particular concern, general state law would prevail; and

WHEREAS, the Oroville City Charter does not provide for municipal control over boards, commissions, and committees appointments and the Council has not previously adopted a policy related thereto; and

WHEREAS, California Government Code Section 40605 provides that an elected mayor shall make all appointments to boards, commissions, and committees with the approval of the city council; and

WHEREAS, the California Attorney General has opined that Government Code Section 40605 establishes an advice and consent relationship; and

WHEREAS, even though the Council has previously followed the process as outlined in Government Code 40605, the Council believes that it is necessary to formalize the process for making boards, commissions, and committee appointments for the City of Oroville.

NOW, THEREFORE, BE IT RESOLVED by the Oroville City Council as follows:

1. The Mayor, with the approval of the City Council, shall make all appointments to boards, commissions, and committees unless otherwise specifically provided by statute or City Charter. The role of the Council is to advise and consent (i.e. approve or reject), however, the Council

may not substitute its desired appointments for that of the Mayor. This appointment authority shall not extend to the Planning Commission, the Parks Commission, the Arts Commission, or the Citizen’s Oversight Committee related to Measure U, which shall be appointed by a majority vote of the Council.

2. The Mayor shall announce his or her appointments at or before a properly noticed regular or special meeting of the City Council Agenda which lists this matter as an item for action to be taken. A vote of the council shall be taken. Appointments must be approved by a majority of the council present at the meeting. Appointments shall be for one year, unless otherwise announced by the Mayor prior to the appointment.

PASSED AND ADOPTED by the City Council of the City of Oroville at a special meeting on September 5, 2019, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Chuck Reynolds, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott E. Huber, City Attorney

Jackie Glover, Assistant City Clerk



CITY OF OROVILLE STAFF REPORT

TO: MAYOR PITTMAN AND COUNCIL MEMBERS

FROM: BILL LAGRONE, CHIEF OF POLICE

RE: MOBILE AND FIXED SURVEILLANCE SYSTEMS

DATE: JANUARY 2, 2024

SUMMARY

The Council will consider accepting bids for the purchase or lease of a mobile surveillance trailer and fixed cameras. The Council will provide staff direction on the purchase or lease of a mobile surveillance trailer and fixed cameras.

DISCUSSION

To utilize technology to enhance crime prevention and citizen safety, the proposed systems would encompass a combination of stationary and mobile surveillance equipment. Mobile surveillance trailers provide robust public safety solutions for various environments. Their presence acts as a visible deterrent to potential threats, deterring criminals and vandals. Equipped with advanced cameras and monitoring systems, these trailers enable real time surveillance, allowing Police to respond to suspicious activities and use as evidence to later detain and prosecute. By providing an extra layer of protection, mobile surveillance trailers enhance overall public safety.

One of the key advantages of mobile surveillance trailers is their flexibility. These trailers can be easily transported and deployed in different locations as crime trends and patterns dictate. These trailers are versatile and are easily deployed in parking lots, open spaces, streets and public parks. This versatile deployment allows for focused efforts in problematic areas.

Local retailers throughout the area are increasingly installing these surveillance trailers to deter retail theft and to identify those that are committing crimes. The mobile surveillance trailers enhance citizen safety and help prevent crime.

An additional benefit is the potential use and sharing of information with neighboring agencies. It is more important now to share information and collaborate with surrounding law enforcement agencies. It is not uncommon for those that commit crime to travel from one jurisdiction to another. The collection of identities in one jurisdiction may help to gather evidence to close cases in outside jurisdictions.

In addition, technology has advanced significantly for fixed cameras which can be permanently mounted in various locations (City Hall, Public Safety Facility, Corp Yard, Museums, etc.). These cameras as well work as an effective deterrent and capture evidence which could be used to detain and prosecute.

On November 27, 2023, a request for proposal was published with a closing date of December 11, 2023. The request was for surveillance trailers, fixed cameras, monthly subscription fees, and monitoring services. The requests were for both purchase and lease options. A copy of the request for proposal has been attached for reference.

As of December 11, 2023, (4) four proposals were received. The proposals were from Live View Technologies (LVT), Hawk Surveillance Systems, Mobile Pro Systems, and Recon View. The information from each proposal was compiled and reviewed by staff and the City Administrator.

On December 27, 2023, a follow up telephone conference was held with two of the four proposers. After reviewing the information and having our follow up questions answered, Staff is recommending acceptance of the proposals from Live View Technologies and Recon View.

Due to the varying costs associated with each option staff is recommending the one-year lease option from Live View Technologies (LVT) in an amount not to exceed \$45,000.00 for one mobile unit. The council can direct staff to purchase trailer or lease trailer. The benefit of a lease is there are no monthly subscription costs associated with the lease, they are built into the monthly price. Another benefit is the ability to terminate the lease and return the equipment. The cost of a one-year lease is a little less than half of the purchase price with subscription fees, and will give the City the opportunity to utilize the equipment for an extended period of time and reassess its success in 12 months.

Staff will also assess the potential use of the fixed camera systems and come back at a later time with an update.

FISCAL IMPACT

Funding will come from available fund balance.

RECOMMENDATION

Accept bids from Live View Technologies and Recon View and authorize the City Administrator to enter into a one-year lease agreement with Live View Technologies (LVT) for a mobile surveillance trailer in an amount not to exceed \$45,000/

Direct staff to return to Council with any additional purchases or leases from these proposals as necessary.

OR

Provide Staff with alternative direction.

ATTACHMENTS

1. Request for proposal

2. Summary of cost from request for proposal responses



CITY OF OROVILLE

**1735 MONTGOMERY STREET
OROVILLE, CALIFORNIA 95965
(530) 538-2420**

OROVILLE POLICE DEPARTMENT

REQUEST FOR PROPOSAL

FOR

**Live and recorded video surveillance trailer and
fix mount surveillance systems to include any
monthly subscription fees and monitoring
service.**

Bid Opening Date: December 11, 2023 at 12:00 p.m.

**CITY OF OROVILLE
POLICE DEPARTMENT**

PUBLIC NOTICE

Sealed Proposal for the following are being accepted:

Live and recorded video surveillance trailer and fix mount surveillance systems to include any monthly subscription fees and monitoring service

Will be receiving at the City Clerks Office, for the City of Oroville, 1735 Montgomery Street, Oroville, CA 95965 until December 11, 2023 at 12:00 P.M., at which time they will be publicly opened and read.

Bid specifications including bid proposal forms are available at the City Clerks Office, for the City of Oroville, 1735 Montgomery Street, Oroville, CA 95965 or at Police Department, for the City of Oroville, 2055 Lincoln Street, Oroville, CA 95966. Any questions or request for project scope inspections should be directed to Lieutenant Gil Zarate of the Oroville Police Department at:
Phone (530) 538-2448.

	BID FORM	
Materials: <small>(as specified on proposal request)</small>		\$
Per Trailer		\$
Lease Per Month		\$
Purchase		\$
Per Fixed Camera <small>(purchase)</small>		\$
<small>(Lease)</small> 6 Months		\$
12 Months		\$
24 Months		\$
36 Months		\$
60 Months		\$
Labor:		\$
Subscription Fee <small>(Annual or Monthly)</small>		\$
Monitoring Fee <small>(Annual or Monthly)</small>		\$
SUB TOTAL		\$
TAX		\$
FREIGHT/DELIVERY		\$
TOTAL		\$

The amount of _____ Dollars
(\$ _____)

The undersigned has checked carefully all of the above figures and understands that the City Council shall not be responsible for any error or omissions on the part of the undersigned in making up this bid.

In case of a discrepancy between words and figures, the words shall prevail.

The undersigned hereby certifies that this bid is genuine and not a sham or collusive, or made in the interest of or in behalf of any person not herein named, and that the undersigned has not directly or indirectly induced or solicited any other bidder to put in a sham bid, or any other person, firm or corporation to refrain from bidding, and that the undersigned has not in any manner sought by collusion to secure for himself an advantage over any other bidder.

The City reserves the right to reject any or all bids. The City reserves the right to delete or award all or part of the bid. It is agreed that this bid may not be withdrawn for a period of Ninety (90) days from the opening thereof. The terms and conditions of the final contract when executed shall control and supersede anything herein to the contrary or inconsistent with such contract.

Company Name

Date Area Code/Phone

Signature/Print Name

**Oroville Police Department Invitation and
Instructions for Bidders with Bid
Forms for the Purchase of Mobile Surveillance Trailer
And
fixed video surveillance monitoring cameras**

I. INTRODUCTION

The City of Oroville (“City” or “Police Department”) is seeking bids from qualified firms (hereinafter “Bidder”) to furnish a new Mobile video surveillance Trailer (the “Vehicle”) and fixed cameras as described in this request for proposal. Sealed bids will be received at the Office of the City Clerk, City Hall, 1735 Montgomery Street, Oroville, California, on December 11, 2023 at 12:00 pm.

Copies of specifications and bid documents may be obtained from the City’s website at <http://www.cityoforoville.org>. One original and one copy of the bid documents must be submitted to the POLICE DEPARTMENT in a properly labeled and sealed envelope at CITY HALL, 1735 Montgomery Street, Oroville, California, 95965, not later than 12:00 PM on Monday, December 11, 2023.

Late bids will not be accepted. Bids shall be submitted in a sealed envelope marked on the outside as follows: “Sealed Bid for Police Department Video Surveillance Trailer and fixed camera systems Do Not Open with Regular Mail.”

Questions regarding the Vehicle are due by 5:00 PM on December 8, 2023 and must be submitted by email to Lieutenant Gil Zarate at gzarate@oropd.org with the following as its subject line: Invitation for Bids for Police Department Mobile surveillance Trailer.

II. BID SUBMISSION INSTRUCTIONS

The City’s designated staff will evaluate all bids received. Bids must be submitted as provided in the Introduction as set forth above. During the review process, the City reserves the right, where it may serve the City’s best interest, to request additional information or clarification from those that submit bids, or allow clarifications, corrections of errors, or omissions. Any and all changes in the bid will be made by written addendum, which shall be issued by the City to all prospective bidders who have been issued or obtained copies of the Notice Inviting Bids from the City’s Clerk or the City website.

The City reserves the right to retain all bids submitted. Submission of a bid indicates the Bidder’s acceptance of the conditions contained in this Invitation for Bids, unless clearly and specifically noted in the bids submitted and confirmed in the contract between the City and the Bidder selected.

The preparation of the bid will be at the total expense of the Bidder. There is no expressed or implied obligation for the City to reimburse responding Bidders for any expense incurred in the preparation of bids in response to this request. All bids submitted to the City shall become properties of the City and will not be returned. If any information in your bid is confidential and/or proprietary, please further submit a separate, redacted copy for servicing public records requests. Bidder is liable for all errors or omissions incurred in preparing the Bid. Bidders will not be allowed to alter bid documents after the due date for submission.

The City reserves the right to reject any or all bids, in whole or part, to waive any informalities or irregularities in the selected bid as may be permitted by law in any bid, and to accept the bid which, in its discretion, is in the best interest of the City.

The City of Oroville reserves the right to reject a Bidder who has been delinquent or unfaithful in any former agreement with the City, should it deem it necessary for the public good. The City reserves the right to take all bids under advisement for a period of ninety (90) days. No Bidder may withdraw their Bid for a period of Ninety (90) days after the date from the opening thereof.

Bids must be prepared on the approved Bid Forms in conformance with these Bid Submission Instructions and submitted in a sealed envelope plainly marked on the outside. Delivery and Delay: In the event the delivery of the Vehicle under this contract is delayed due to strikes, injunctions, government controls, or by reason of any cause or circumstance beyond the control of the bidder, the terms of delivery may be extended by a number of days to be determined in each instance by mutual written agreement between the successful bidder and the City representative of the City of Oroville.

Bidder shall provide electronic communication of delivery status to the City representative 30 days prior to the bidder's original delivery date and every seven (7) days thereafter to conclude on date of delivery.

In the event the awarded bidder fails to make complete delivery of the item(s) as specified, bid and awarded, within ten (10) calendar days of the specified contract delivery date, the City shall have the right to assess a monetary penalty equal to \$100/day. The City shall have the right to terminate the contract without being liable to the bidder and acquire said item(s) as the City deems appropriate. It is further agreed that in the event such damages are sustained by the City, the City shall deduct the amount thereof from any monies due or that may become due the Vendor under the contract or take other action as the City deems appropriate.

Important Note: The foregoing notwithstanding, time is of the essence with respect to the delivery of all equipment solicited under this bid. It is materially important that delivery of all equipment be fully and successfully completed by or before 5:00 PM on February 15, 2024, as referenced below. Any bidder who submits a bid warrants and represents that it is able to meet the City's February 15, 2024 delivery requirements.

III. BID INQUIRIES

Questions with regards to this Bid should be submitted by email to Lieutenant Gil Zarate: gzarate@oropd.org by December 8, 2023, by 5:00 PM.

IV. BID SCHEDULE

The City reserves the right to make changes to the below schedule, but plans to adhere to the implementation of this bid process as follows:

Notice Inviting Bids Issued: November 21, 2023

Deadline for Receiving Questions: December 8, 2023 5:00 PM

Response to Questions Issued: December 11, 2023 9:00 AM

Bids Due: December 11, 2023 5:00 PM

Vendor Awarded: January 2, 2024 (As directed by City Council)

V. EQUIPMENT DESCRIPTION & SPECIFICATIONS:

The Police Department of the City of Oroville intends to procure a mobile surveillance Trailer from a qualified dealer to meet or exceed the specifications outlined below and in the attached Bid Forms. Bids must include an exact delivery date, which is be evaluated as part of Bidder's formal bid offering. Vehicle delivery date must be made on or before 5:00 PM on February 15, 2024. Bidder must be willing and able to accept wire transfer from City of purchase funds.

The Bidder should identify any additional standards required, price them, and explain them in their response. Bidders are required to state the complete unit price, including sales tax. Prices quoted shall be F.O.B. City of Oroville, CA. The final determinant for "equal product" quotes shall solely be the City of Oroville. Submission of any quote or proposal shall be subject to this determination and will be a consideration in the presentation and bid award. Any bidder submitting a quote or proposal shall do so fully accepting this determinant procedure.

BIDS SHOULD INCLUDE BOTH THE LEASE OPTION AND PURCHASE OPTION OF EQUIPMENT. PLEASE INCLUDE LEASE OPTIONS OF 6 MONTHS, 12 MONTHS, 24 MONTHS, 36 MONTHS AND 60 MONTHS

The Vehicle being sought under this Invitation to Bid includes but is not limited to the following:

Portable Mobile Surveillance Trailer

Telescoping mast of at least 20'

70-120° high resolution horizontal FOV

Optical, IR illumination, thermal, and PTZ

Human and vehicle detection up to 650 ft

Maximum streaming resolution of 1920x1080

(PTZ) and 2992x2992 (panoramic)

58° (PTZ) and 360° (panoramic) horizontal FOV per camera

Two-way speaker

Flood light and blue/red strobe lights

NDAA and TAA compliant options

Other capabilities and Functions:

Intrusion detection

Line crossing

Dual bounding boxes

Human and vehicle detection

Infrared and thermal imaging

Live stream

Record and playback

Security analytics

Remote device management

2-way communication

Flood and strobe lights

Backup fuel cell generator

POWER 24 V DC @ 24 WATTS (DISARMED)

@ 36 WATTS (ARMED)

@ 100 WATTS (MAX, FLOODLIGHT ON)

SOLAR GENERATION 800 WATTS

BATTERY BANK CAPACITY 460 AH

DOT APPROVED LIGHTING

ANTI-THEFT MEASURES INCLUDING LOCKING COMPARTMENTS AND WHEEL LOCKS

MULTI CAMERA HEAD TO SUPPORT BOTH OPTICAL AND INFRARED VIEWING

FIXED CAMERAS: please provide prices for multi-camera purchases (discount for purchasing more than one). Prices include 1 to 3 cameras, 3 to 6 cameras, and 7 and above.

70-120° high resolution horizontal FOV

Optical, IR illumination, thermal, and PTZ

Human and vehicle detection up to 650 ft

Maximum streaming resolution of 1920x1080

(PTZ) and 2992x2992 (panoramic)

58° (PTZ) and 360° (panoramic) horizontal FOV

per camera

Two-way speaker

Flood light and blue/red strobe lights

NDAA and TAA compliant options

Intrusion detection

Line crossing

Dual bounding boxes

Human and vehicle detection

Infrared and thermal imaging

Live stream

Record and playback

Security analytics

Remote device management

2-way communication

Flood and strobe lights

Hardware and software warranties, all required mounting brackets

Included

CAMERA MONITORING SERVICE:

Please provide best price for offsite monitoring of cameras

VI. EVALUATION OF BIDS

The City award shall be made to the lowest responsible and responsive Bidder. The lowest responsive bid shall be based on the total base bid price and equipment best meeting the needs of the City. In determining if a Bidder is responsible, Bids will be judged on the Bidder's ability to provide goods/equipment that meet the requirements set forth in this document. The City reserves the right to make such investigations as it deems necessary to determine the ability of the Bidder to provide goods meeting a satisfactory level of performance in accordance with the City's requirements. Interviews and presentations by one, several, or all of the Bidders may be requested by evaluators if deemed necessary to fully understand and compare the Bidder's capabilities and qualifications. The adequacy, depth, and clarity of the Bid will influence, to a considerable degree, its evaluation. The award of the Bid, if made, will be determined solely by the City of Oroville.

Acceptance of a bid does not constitute a contract with the City. A contract shall be created only by issuance of a Purchase Order by City. Disputes or protests regarding the bidding process must be submitted in writing (via email or hard copy) to the Office of the City Clerk CityClerk@cityof Oroville.org 1735 Montgomery Street, Oroville Ca 95965, by or before 5:00 PM on the fourth (4th) working day following the bid opening. Submissions must be submitted by a Bidder with a complete and detailed statement of the factual and legal basis for the protest, an explanation for the resulting prejudice that the protestor will suffer and supporting documentation for such prejudice. The City will review that protest and provide a written response to the protester. The decision of the City shall be final. No public hearing will be held on the protest, except as required by law. Time being of the essence, the City reserves the right to proceed with award of the Agreement and commencement of the Services notwithstanding any pending protest or legal challenge. If the City determines that a protest is frivolous, the protesting Bidder may be determined to be non responsible and that Bidder may be determined to be ineligible for future contract awards.

Request for Proposal Bids for Surveillance Trailer

	Hawk	LVT	Mobile	Recon View
Trailer Purchase	\$59,292.00	\$54,995.00	\$46,156.00	\$54,592.25
Trailer Lease	\$4,511.46	\$3,145.50 4 camera	Non Option	\$1,950.00 Single camera
Fixed Camera Purchase	\$7,545.00	\$14,500.00 11+ cameras	Non Option	Non Option
Monthly Subscription	\$0.00	\$1,250.00 Waived if leased	\$359.40 after 1 year	Waived \$0.00
Monthly Monitoring	\$375.00	\$0.00	Non Option	\$699.00
Misc Fees	\$4,500.00	\$0.00	\$3,200.00	\$5,650.00



CITY OF OROVILLE STAFF REPORT

TO: MAYOR PITTMAN AND COUNCIL MEMBERS

FROM: BRIAN RING, CITY ADMINISTRATOR

RE: EMPLOYMENT AGREEMENT BETWEEN THE CITY OF OROVILLE AND JESS DARNELL

DATE: JANUARY 2, 2024

SUMMARY

The Council will consider an employment agreement between the City of Oroville and Jess Darnell for the position of Assistant Chief of Police for the City of Oroville.

DISCUSSION

The Council has recently interviewed and discussed the appointment of an Assistant Chief of Police. Applications were accepted from both internal and external applicants earlier this year. Jess Darnell (“Darnell”) was interviewed and received the recommendation of the Council for placement into the position of Assistant Chief of Police.

Darnell is currently working as the Detective for the Oroville Police Department. Prior to his current assignment, Darnell worked previously for the Oroville Police Department, later moving to Tehama County. In 2022 Darnell returned to the Oroville Police Department to continue pursuing his career in Law Enforcement. Prior to beginning a career in Law Enforcement, Darnell served honorably in the United States Marine Corp, ultimately achieving the rank of Captain. Darnell has a Masters Degree in Military History and has completed numerous law enforcement related courses.

Staff has prepared a contract for Jess Darnell to fill the position of Assistant Chief of Police. The terms of the contract include a starting salary of \$129,022 for a term of three years. If approved the contract will be effective January 8, 2024, through January 7, 2027. In July of 2026 if Darnell wishes to continue the contract, he must submit a letter asking the Council for an extension. The Council would have to consider the letter and respond within 30 days to continue the contract. The contract is consistent with contracts for contract at will employees of the City Council.

FISCAL IMPACT:

Funding will come for the Police Department Budget.

RECOMMENDATION:

Adopt Resolution No. XXXX - A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN EMPLOYMENT AGREEMENT BETWEEN THE CITY OF OROVILLE AND JESS DARNELL TO SERVE AS ASSITANT CHIEF OF POLICE – (Agreement No. xxxx).

EMPLOYMENT AGREEMENT FOR ASSISTANT CHIEF OF POLICE BETWEEN THE CITY OF OROVILLE AND JESS DARNELL AGREEMENT NO. 3489

This agreement ("Agreement") is made and entered into on January 2, 2024, by and between the City of Oroville, hereinafter called "City", and Jess Darnell, hereinafter called "Darnell", to be effective January 8, 2024, both of whom understand as follows:

Witnesseth:

WHEREAS, City desires to employ the services of Darnell as its Assistant Chief of Police; and

WHEREAS, it is the desire of the City Council ("Council") of the City of Oroville, to provide certain benefits, to establish certain conditions of employment and set working conditions for Darnell; and

WHEREAS, Darnell desires to be employed as the Assistant Chief of Police for the City.

Now, therefore, in consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1. Duties:

City hereby agrees to employ Darnell as the Assistant Chief of Police of the City to perform the functions and duties specified for the position in the City Charter, Municipal Code of the City, the approved job description (which may all be amended from time to time) and such other legally permissible and proper duties and functions as the Council shall from time-to-time assign to him. Within thirty-six months, Darnell shall obtain the Supervisory Certificate and Management Certificate from the California Commission on Police Officer Standards and Training.

Section 2. Term; Termination; Severance Compensation:

- A.** The term of this Agreement shall be effective January 8, 2024, and shall continue through January 7, 2027, at which time Darnell may request a (2) two-year extension of this contract, on/or about July 7, 2026. Darnell shall give written notice to the City if he wishes to extend the agreement on the same terms and conditions for an additional (2) years. Thereafter the Council shall determine, within 30 days, whether it wishes to continue and/or extend the agreement and shall give written notice to Darnell of its decision. If the Council approves the continuation and/or extension, the parties shall meet to agree upon the terms of a new or extended agreement. If the Council disapproves of the continuation and/or extension, or if the parties fail to agree upon the terms of a new or extended agreement, this agreement shall terminate as outlined above, and thereafter Darnell shall not be entitled to any compensation except for any accrued vested benefits as listed below.
- B.** If Darnell resigns his position as the Assistant Chief of Police before the expiration date of the initial or any extended term of the agreement, Darnell shall give City a 60-day written notice in advance. In such event, Darnell shall not be entitled to the severance compensation provided for in Section 2.C. Darnell, in concurrence with the Council, may reduce the required notice to not less than 30 days without penalty should Darnell make such request.
- C.** As an at will employee, City may terminate this agreement at any time with or without cause. If the City discharges Darnell from his position, without cause, as Assistant Chief of Police, the City shall pay Darnell a lump-sum cash payment equal to six months' salary. In addition, Darnell shall also be compensated for all vested accrued leave time, which is currently defined as all accumulated and unused vacation. The City shall not contribute any payment towards continued health insurance (i.e. COBRA) or any other benefits contained in this Agreement,

including but not limited to vehicle allowance and technology allowance. However, in the event Darnell is discharged for cause or for conviction of a crime, City shall have no obligation to pay any severance compensation except for any vested benefits. In any event, if the City chooses to terminate the agreement, Darnell shall have the opportunity to retire from City employment through PERS, in lieu of termination.

Section 3. Random Drug Testing Policy:

Darnell agrees to comply with the City of Oroville’s Substance Abuse Policy Statement, as outlined in the City of Oroville’s Policy and Procedures.

Section 4. Non-Industrial Injury/ Illness:

If Darnell becomes permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity, or health for a period of four successive weeks beyond any accrued leave, City shall have the option to terminate the agreement, subject to the severance pay provisions of Section 2. C.: provided, however City shall be required to comply with the provisions of the Americans with Disabilities Act and the Californian Fair Employment and Housing Act.

Section 5. Salary:

City agrees to place Darnell at Step E of the Assistant Chief of Police salary schedule, with an annual base salary of \$129,022, upon the effective date noted above and payable at the same time and manner as other Council Appointed Employees of the City are paid.

Section 6. Performance Evaluation:

The Council shall direct the City administrator to complete a performance evaluation of Darnell by January 8th of each year of the contract and during any extension period of the contract and upon the Council’s concurrence with a satisfactory review, Darnell may receive a salary adjustment of up to one step on the salary schedule for his base salary, for an overall evaluation of ‘M’ or better. Such review and evaluation shall be in accordance with specific criteria developed jointly by the City Administrator and Darnell. Such criteria may be added to or deleted from, as the City Administrator may determine from time to time, in consultation with Darnell. The City Administrator’s evaluation of Darnell will be shared with the Mayor and Council. The Mayor and Council may add additional comments to Darnell’s final evaluation.

Section 7. Hours of Work; Administrative Leave:

Employed on a full-time basis, and for optimal customer service should perform such work, during normal business hours. However, it is recognized that it shall be required to devote a great deal of time outside of normal office hours on business of City, and to that end he shall be allowed to take 85 hours per calendar year of Administrative Leave, unless City and Darnell agree upon an alternate amount of leave. Such leave may be taken only upon approval of the City Administrator. Darnell shall have the option to cash out up to 20 hours of administrative leave per calendar year.

Section 8. Bereavement Leave:

When compelled to be absent from work by reason of death of an immediate family member, or when death appears imminent, Darnell shall be entitled to receive up to five (5) days Bereavement Leave, which shall not be charged against his sick leave. Before taking such leave, Darnell shall notify, in writing, the City Administrator of the time of absence needed and the expected date of return to work. The immediate family is defined as spouse; natural, step or legal child; parent; brother; sister; grandparent; grandchild; mother-in-law or father-in-law.

Section 9. Automobile Allowance:

City shall provide an automobile to Darnell suitable for his use while performing his duties or compensate him if no vehicle is available at \$300.00 per month in compliance with Internal Revenue Regulation Section 1.274.5 T(k)(6).

Section 10. Vacation and Sick Leave:

Darnell shall accumulate sick leave at the rate of one (1) workday for each month of employment. Darnell shall be permitted to accumulate an unlimited amount of sick leave.

Darnell shall accumulate vacation leave at the rate of 15 working days of vacation per year. Darnell shall be permitted to accumulate an unlimited amount of vacation.

Section 11. Medical, Vision, Life, Disability and Dental Insurance:

The City shall pay one hundred percent (100%) of the premiums for Medical, Dental, Vision, Long-Term Disability and Life Insurance for Darnell and his eligible dependents.

Section 12. Holidays: Darnell is authorized to celebrate the following holidays:

- | | |
|---------------------------|---------------------------------------|
| 1. New Year's Day | 7. Labor Day |
| 2. Martin Luther King Day | 8. Veteran's Day |
| 3. Lincoln's Birthday | 9. Thanksgiving Day |
| 4. President's Day | 10. The Day After Thanksgiving Day |
| 5. Memorial Day | 11. Last Workday Before Christmas Day |
| 6. Independence Day | 12. Christmas Day |

Section 13. Technology Fee:

City shall provide a technology allowance to Darnell in the amount of \$100/month to compensate him for the use of his private cell phone and laptop/tablet for City business unless cell phone and laptop/table are provided by City.

Section 14. Uniform Allowance:

On the first pay period in December, and each first pay period in December thereafter; DARNELL shall receive an annual clothing allowance of \$950.00. This will constitute the clothing allowance for the following calendar year.

The City agrees to provide Darnell with the following uniform insignia:

- 1) Patches - up to 8 sets per year as needed
- 2) Pins - as needed
- 3) Badge

Section 15. Retirement:

Darnell, who is a new member to CalPERS, will pay 50% of the normal cost, as determined by CalPERS each year, plus an additional 3% cost sharing contribution. "New members" shall be defined as individual who becomes a member of a public retirement system for the first time on or after January 1, 2013, and who was not a member of another public retirement system prior to that date, and who is not subject to reciprocity with another public retirement system.

The City will continue to provide 1959 Survivor Benefit at the 4th level for DARNELL.

Effective January 1, 2013, or after, new members will have their retirement benefit calculations based off their three (3) highest years.

Sick Leave Conversion at the Time of Retirement:

Upon regular retirement from the City of Oroville, Darnell shall have the option to convert this unused sick leave balance to CalPERS service credit or he may convert it to a dollar value to pay premiums for medical, dental and vision insurance. Darnell may also elect to split the unused sick leave between the CalPERS service credit and dollar value account for insurance, subject to CalPERS requirements.

If Darnell elects to convert the unused sick leave to a dollar value account to pay for medical, dental and vision insurance and it becomes exhausted, Darnell shall have the option of continuing medical, dental and vision insurance coverage at Darnell's own expense, consistent with current City policy and Federal law. If, after Darnell's retirement, Darnell becomes deceased before the dollar value account has been completely utilized, the remaining benefits shall be available to the surviving eligible family members for medical, dental and vision insurance.

Section 16. Deferred Compensation Plan:

The City shall provide a Deferred Compensation Plan for Darnell. The City shall contribute 3% of Darnell's base salary to his Deferred Compensation Plan. In addition, the City shall match the first 2% that Darnell contributes to his Deferred Compensation Plan.

Section 17. Outside Employment:

During the term of the agreement, and any extensions thereof, Darnell shall only accept outside employment that involves teaching or training related to his profession and any existing agreements. Any outside employment shall not interfere with Darnell's duties while employed by the City and no other outside employment of any kind or character is permitted without having first obtained the prior approval of the Council.

Section 18. Dues and Subscriptions:

City agrees to budget and pay for professional dues and subscriptions of Darnell necessary for his continuation and full participation in national, regional, state and local associations and organizations as are desirable for his continued professional participation, growth and advancement, and for the good of the City; provided, however, the amount of such dues and subscriptions shall not exceed the amount appropriated therefore in the annual budget.

Section 19. Professional Development:

- A. City agrees to budget and pay for travel and subsistence expenses of Darnell for professional and official travel, meetings, and occasions to continue the professional development of Darnell, and to adequately pursue necessary official functions for the City and such other national, regional, state and local governmental groups and committees thereof which Darnell serves as a member; provided, however, the amount of such travel and subsistence shall not exceed the amount appropriated therefore in the annual budget.
- B. City also agrees to budget and pay for travel and subsistence expenses of Darnell for short courses, institutes and seminars that are necessary for his professional development, and for the good of the City; provided, however, the amount of such travel and subsistence shall not exceed the amount appropriated therefore in the annual budget.

Section 20. General Expenses:

City recognizes that certain expenses of a non-personal and generally job-affiliated nature shall be incurred by Darnell, and hereby agrees to reimburse or to pay such general expenses up to an amount not to exceed the amount provided for such purposes in the Administration's portion

of the annual City budget. The Finance Department is hereby authorized to disburse such monies in accordance with adopted City expense reimbursement policies.

Section 21. Civic Club Membership:

City recognizes the desirability of representation in and before local civic and other organizations, and Darnell is authorized to become a member of such civic clubs or organizations. During the term of the agreement, City, at its sole discretion, may elect to pay some or all of Darnell's civic club membership expenses.

Section 22. Indemnification:

In addition to the requirements of state and local law, City shall defend, save harmless, and indemnify Darnell against any tort, professional liability claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Darnell's duties as Assistant Chief of Police, except for any civil action or proceeding brought against Darnell for actual fraud, corruption or actual malice. City, at its sole discretion, shall compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon.

Section 23. Bonding:

City shall bear the full cost of any fidelity or other bonds required of Darnell under any law or ordinance.

Section 24. Other Terms and Conditions of Employment:

It is understood and agreed by City and Darnell that Darnell is an "at will" employee of the City appointed by the Council under the provisions of the City Charter. As such, Darnell serves at the pleasure of City and is not subject to the provisions of the City of Oroville Personnel Rules and Regulations.

Section 25. Notices:

Notices pursuant to the agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

- A. TO CITY: Mayor, City of Oroville, 1735 Montgomery Street, Oroville, CA 95965
- B. TO DARNELL: Darnell at his permanent residence address on record with the City of Oroville

Alternatively, notices required pursuant to the agreement may be personally served to the same persons as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the United States Postal Service.

Section 26. General Provisions:

- A. The text herein shall constitute the entire agreement between the parties.
- B. The agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Darnell.
- C. The agreement shall not be assigned by Darnell or City.
- D. The agreement shall not be modified without the written consent of Darnell and the City.
- E. If any provision, or any portion thereof, contained in the agreement is held unconstitutional, invalid or unenforceable, the remainder of the agreement or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

Approved by the City Council of the City of Oroville at a meeting held January 2, 2024.

CITY OF OROVILLE

JESS DARNELL

David Pittman, Mayor

Jess Darnell

APPROVED AS TO FORM:

Scott E. Huber, City Attorney

**OROVILLE CITY COUNCIL
RESOLUTION NO. 9209**

A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF OROVILLE AND JESS DARNELL

(Agreement No. 3489)

BE IT HEREBY RESOLVED by the Oroville City Council as follows:

- 1. The Mayor is hereby authorized and directed to execute an Amendment to the Employment Agreement between the City of Oroville and Jess Darnell. The Agreement is attached hereto as Exhibit "A".
- 2. The City Clerk shall attest to the adoption of this Resolution.

PASSED AND ADOPTED by the Oroville City Council at a regular meeting held on January 2, 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

David Pittman, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott E. Huber, City Attorney

Brian Ring, City Clerk



CITY OF OROVILLE STAFF REPORT

TO: MAYOR PITTMAN AND COUNCIL MEMBERS

FROM: BRIAN RING, CITY ADMINISTRATOR

**RE: EMPLOYMENT CONTRACT AMENDMENT WITH RUTH DUNCAN,
DIRECTOR, FINANCE**

DATE: JANUARY 2, 2024

SUMMARY

The Council will consider an amendment to the employment contract with Ruth Duncan, Director, Finance.

DISCUSSION

Ruth Duncan entered into an amended employment contract with the City on May 17, 2022, at a salary of \$161,500/year (step G), for a term of three years. Her salary increased to \$166,345 on July 25, 2022 when a 3% Cost of Living increase was applied.

Staff recommend amending this contract with the following changes:

- A salary advancement to Step H on the Department Head salary schedule, with an annual salary of \$175,100, with an effective date January 8, 2024.

FISCAL IMPACT

This will represent an annual salary and benefits of approximately \$10,500 and will be absorbed in the existing budget.

RECOMMENDATION

Adopt Resolution No. XXXX – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF OROVILLE AND RUTH DUNCAN – (Agreement No. 3093-3).

ATTACHMENTS:

May 17, 2022 Amendment Contract
Contract Amendment #2

Resolution

**EMPLOYMENT AMENDED AGREEMENT 3093-3 BETWEEN
THE CITY OF OROVILLE AND RUTH WRIGHT**

The employment agreement ("Agreement") is made and entered into on May 17, 2022, by and between the City of Oroville ("City") and Ruth Wright ("Wright") to be effective May 17, 2022, both of whom understand as follows:

WHEREAS, City desires to employ the services of Wright as its Assistant City Administrator / Administration Department; and

WHEREAS, it is the desire of the City Council ("Council") of the City to provide certain benefits, to establish certain conditions of employment and to set working conditions for Wright; and

WHEREAS, Wright desires to be employed as the Assistant City Administrator / Administration Department of City.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties agree that the Agreement supersedes in total any prior employment agreements or Memorandum of Understandings between the parties, and further agree as follows:

Section 1. Duties:

City hereby agrees to employ Wright as the Assistant City Administrator / Administration Department of City to perform the functions and duties specified for the position in the City Charter, Municipal Code of the City and such other legally permissible and proper duties and functions as the Council shall from time to time assign her.

Section 2. Term; Termination: Severance Compensation:

- A.** The term of this Agreement shall be effective May 17, 2022, and shall continue until May 16, 2025. On or before November 16, 2024, Wright shall give written notice to City if she wishes to extend the agreement on the same terms and conditions. Thereafter the Council shall determine, within 30 days, whether or not it wishes to continue and/or extend the agreement and shall give written notice to Wright of its decision. If the Council approves the continuation and/or extension, the parties shall meet in an effort to agree upon the terms of a new or extended agreement. If the Council disapproves the continuation and/or extension, or if the parties fail to agree upon the terms of a new or extended agreement, this Agreement shall terminate as outlined above, and thereafter Wright shall not be entitled to any compensation except for any accrued vested benefits as listed above.
- B.** If Wright resigns her position as Assistant City Administrator / Administration Department before the expiration date of the initial or any extended term of this Agreement; Wright shall give City a sixty (60) day written notice in advance to City. In such event, Wright shall not be entitled to the severance compensation provided for in Section 2.C of this Agreement. The City Administrator, in concurrence with the Council, may reduce the required notice to not less than thirty (30) days without penalty should Wright make such request.

- C. **As an at-will employee**, City may terminate this Agreement at any time with or without cause. If the City discharges Wright from her position, without cause, as Assistant City Administrator / Administration Department, the City shall pay Wright a lump-sum cash payment equal to six (6) month's salary. In addition, Wright shall also be compensated for all ~~vested accrued leave time, which is currently defined as all~~ accumulated and unused **vacation time, and any administrative time not to exceed 20 hours, unless 20 hours has already been cashed out for the current fiscal year. No other leave balances or benefits under the Agreement may be cashed out upon termination of the Agreement.** However, in the event Wright is discharged for cause or for conviction of a crime, City shall have no obligation to pay any severance compensation except for any vested benefits. In any event, if the City chooses to terminate the agreement, Wright shall have the opportunity to retire from City employment through PERS, in lieu of termination.

Section 3. Random Drug Testing Policy:

Wright agrees to comply with the City of Oroville's Substance Abuse Policy Statement, as outlined in the City of Oroville's Policy and Procedures.

Section 4. Non-Industrial Injury/ Illness:

If Wright becomes permanently disabled or is otherwise unable to perform her duties because of sickness, accident, injury, mental incapacity, or health for a period of four successive weeks beyond any accrued leave, City shall have the option to terminate the Agreement, subject to the severance pay provisions of Section 2. C.: provided, however City shall be required to comply with the provisions of the Americans with Disabilities Act and the Californian Fair Employment and Housing Act.

Section 5. Salary:

City agrees to place Wright at **Step G** of the Assistant City Administrator salary schedule, an annual base salary of **\$161,500**, upon the effective date noted above and payable at the same time and manner as other Council Appointed Employees of the City are paid.

Section 6. Performance Evaluation:

The Council shall direct the City Administrator to complete a performance evaluation of Wright by December 31st of each year of the contract and during any extension period of the contract and upon the Council's concurrence with the satisfactory review, Wright may receive a salary adjustment of up to one step of the salary schedule for her base salary, for an overall evaluation of 'M' or better. Such review and evaluation shall be in accordance with specific criteria developed jointly by the City Administrator and Wright. Such criteria may be added to or deleted from, as the City Administrator may determine from time to time, in consultation with Wright. The City Administrator's evaluation of Wright will be shared with the Mayor and Council. The Mayor and Council may add additional comments to Wright's final evaluation.

Section 7. Hours of Work; Administrative Leave:

Wright shall be employed on a full-time basis, and for optimal customer service should perform such work, during normal business hours. However, it is recognized that Wright shall be required to devote a great deal of time outside of normal office hours on business of City, and to that end she shall be allowed to take 85 hours per calendar year of Administrative Leave, unless City and Wright agree upon an alternate amount of leave (which shall be documented in writing). Such leave may be taken only upon approval of the City Administrator. Wright shall have the option to cash out up to twenty (20) hours of administrative leave per calendar year.

Section 8. Bereavement Leave:

When compelled to be absent from work by reason of death of an immediate family member, or where death appears imminent, Wright shall be entitled to receive up to five (5) days Bereavement Leave, which shall not be charged against her sick leave. Before taking such leave, Wright shall notify, in writing, the City Administrator of the time of absence needed and the expected date of return to work.

The immediate family is defined as spouse; natural, step or legal child; parent; brother; sister; grandparent; grandchild; mother-in-law or father-in-law.

Section 9. Automobile Allowance:

City shall provide an automobile to Wright suitable for her use while performing her duties as the Director of Business and Housing or compensate her if no vehicle is available at the rate of \$300.00 per month in compliance with Internal Revenue Regulation Section 1.274.5T(k)(6).

Section 10. Vacation and Sick Leave:

Wright shall continue to accumulate sick leave at the rate of one (1) workday for each month of employment. Wright shall be permitted to accumulate an unlimited amount of sick leave.

Wright shall accumulate vacation leave at the rate of twenty-one (21) working days of vacation per year. Wright shall be permitted to accumulate an unlimited amount of vacation leave.

Section 11. Medical, Vision, Life, Disability and Dental Insurance:

The City shall pay one hundred percent (100%) of the premiums for Medical, Dental, Vision, Long-Term Disability and Life Insurance for Wright and her eligible dependents.

Section 12. Holidays: Wright is authorized to celebrate the following holidays:

1. New Year's Day
2. Martin Luther King Day
3. Lincoln's Birthday
4. President's Day
5. Memorial Day
6. Independence Day

- | | |
|------------------------------------|---------------------------------------|
| 7. Labor Day | 11. Last Workday Before Christmas Day |
| 8. Veteran's Day | 12. Christmas Day |
| 9. Thanksgiving Day | |
| 10. The Day After Thanksgiving Day | |

Wright shall be compensated for each holiday at the straight time compensation rate.

Section 13. Technology Fee:

City shall provide a technology allowance to Wright in the amount of \$100/month to compensate her for the use of her private cell phone and laptop/tablet for City business.

Section 14. Retirement:

Wright will pay ~~7%~~ 12% of the employee share of her CalPERS retirement contribution upon commencement of this agreement. In the event that any legislation mandates that the employee share increase above ~~7%~~ 12% during the term of this agreement or any extensions, Wright and City agree to negotiate terms for the implementation of any increase.

The City will continue to provide the single highest year benefit calculation and the 1959 Survivor Benefit at the 4th level for Wright.

Sick Leave Conversion at the Time of Retirement:

Upon regular retirement from the City of Oroville, Wright shall have the option to convert her unused sick leave balance to CalPERS service credit. ~~In the alternative, Wright may convert her unused sick leave balance to a dollar value account at the rate of one month premium for each three (3) days of accrued but unused sick leave remaining on the books at the date of retirement to pay premiums for medical, dental and vision insurance. Wright may also elect to split her unused sick leave between the CalPERS service credit and dollar value account for insurance, subject to CalPERS requirements.~~

If Wright elects to convert her unused sick leave to a dollar value account to pay for ~~medical,~~ dental and vision insurance and it becomes exhausted, Wright shall have the option of continuing ~~medical,~~ dental and vision insurance coverage at her own expense, consistent with current City policy and Federal law. If, after her retirement, Wright becomes deceased before her dollar value account has been completely utilized, the remaining benefits shall be available to the surviving eligible family members.

The City agrees to provide 100% of the cost of the least expensive health insurance plan available for employees for employee only, after retirement to employees who have completed 30 years of service or 20 years of service with the City of Oroville and are at least 5 years past their earliest retirement date provide by their CalPERS retirement plan. For example: An employee that has 2%@55 CalPERS formula would be eligible for retiree medical insurance after 20 years of service and is at least 60 years old. This benefit will continue until the employee reaches the age required to receive the Medicare benefits. If the employee wishes to add a spouse to this benefit all increased costs will be paid by the employee. Once the employee has retired and is on this benefit, the City may not withdraw from this agreement, even if this benefit is discontinued for future employees.

The City agrees to provide 75% of the cost for the least expensive health insurance plan available for employees for employee only, after retirement for employees who have completed 15 years of service with the City of Oroville and are at least 5 years past their earliest retirement date provide by their CalPERS retirement plan. This benefit will continue until the employee reaches

the age required to receive Medicare benefits. If the employee wishes to add a spouse to this benefit all increased costs will be paid by the employee. Once the employee has retired and is on this benefit, the City may not withdraw from this agreement, even if this benefit is discontinued for future employees.

The City agrees to provide 50% of the cost for the least expensive health insurance plan available for employees for employee only, after retirement for employees who have completed 10 years of service with the City of Oroville and are at least 5 years past their earliest retirement date provide by their CalPERS retirement plan. This benefit will continue until the employee reaches the age required to receive the Medicare benefit. If the employee wishes to add a spouse to this benefit all increased costs will be paid by the employee. Once the employee has retired and is on this benefit, the City may not withdraw from this agreement, even if this benefit is discontinued for future employees.

Section 15. Deferred Compensation Plan:

The City shall provide a Deferred Compensation Plan for Wright. The City shall contribute 3% of Wright's base salary to Wright's Deferred Compensation Plan. In addition, the City shall match the first 2% that Wright contributes to Wright's Deferred Compensation Plan.

Section 16. Outside Employment:

During the term of the Agreement, and any extensions thereof, Wright shall only accept outside employment that involves teaching or training related to her profession and any existing agreements. Any outside employment shall not interfere with Wright's duties as while employed by the City and no other outside employment of any kind or character is permitted without having first obtained the prior approval of the Council.

Section 17. Dues and Subscriptions:

City agrees to budget for and to pay for professional dues and subscriptions of Wright necessary for her continuation and full participation in national, regional, state and local associations and organizations as are desirable for her continued professional participation, growth and advancement, and for the good of the City; provided, however, the amount of such dues and subscriptions shall not exceed the amount appropriated therefore in the annual budget.

Section 18. Professional Development:

- A. City agrees to budget for and to pay for travel and subsistence expenses of Wright for professional and official travel, meetings, and occasions to continue the professional development of Wright, and to adequately pursue necessary official functions for City and such other national, regional, state and local governmental groups and committees thereof which Wright serves as a member; provided, however, the amount of such travel and subsistence shall not exceed the amount appropriated therefore in the annual budget.
- B. City also agrees to budget for and to pay for travel and subsistence expenses of Wright for short courses, institutes and seminars that are necessary for her professional development, and for the good of the City; provided, however, the amount of such travel and subsistence shall not exceed the amount appropriated therefore in the annual budget.

Section 19. General Expenses:

City recognizes that certain expenses of a non-personal and generally job-affiliated nature shall be incurred by Wright, and hereby agrees to reimburse or to pay such general expenses up to an amount not to exceed the amount provided for such purposes in the Business and Housing Department's portion of the annual City budget. The Finance Department is hereby authorized to disburse such monies in accordance with adopted City expense reimbursement policies.

Section 20. Civic Club Membership:

City recognizes the desirability of representation in and before local civic and other organizations, and Wright is authorized to become a member of such civic clubs or organizations. During the term of the agreement, City, at its sole discretion, may elect to pay some or all Wright's civic club membership expenses.

Section 21. Indemnification:

In addition to the requirements of state and local law, City shall defend, save harmless, and indemnify Wright against any tort, professional liability claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Wright's duties as Assistant City Administrator / Administration Department, except for any civil action or proceeding brought against Wright for actual fraud, corruption or actual malice. City, at its sole discretion, shall compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon.

Section 22. Bonding:

City shall bear the full cost of any fidelity or other bonds required of Wright under any law or ordinance.

Section 23. Other Terms and Conditions of Employment:

It is understood and agreed by City and Wright that Wright is an "at will" employee of the City appointed by the Council under the provisions of the City Charter. As such, Wright serves at the pleasure of City and is not subject to the provisions of the City of Oroville Personnel Rules and Regulations.

Section 24. Notices:

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

- A. TO CITY: Mayor, City of Oroville, 1735 Montgomery Street, Oroville, CA 95965
- B. TO WRIGHT: Ruth Wright at her permanent residence address on record with the City of Oroville

Alternatively, notices required pursuant to this Agreement may be personally served to the same persons as is applicable to civil judicial practice. Notice shall be deemed given as of the date of

personal service or as of the date of deposit of such written notice in the United States Postal Service.

Section 25. General Provisions:

- A. The text herein shall constitute the entire agreement between the parties.
- B. Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Wright.
- C. This Agreement shall not be assigned by Wright or City.
- D. This Agreement shall not be modified without the written consent of Wright and City.
- E. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

Approved by the City Council of the City of Oroville at a meeting held May 17, 2022.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

CITY OF OROVILLE

Charles Reynolds, Mayor

Ruth Wright, Assistant City Administrator /
Administration Department

APPROVED AS TO FORM:

Scott E. Huber, City Attorney

**SECOND AMENDMENT TO EMPLOYMENT AGREEMENT BETWEEN
THE CITY OF OROVILLE AND RUTH DUNCAN**

This Amendment, dated January 2, 2024, is to the Amended Employment Agreement (“Agreement”) effective May 17, 2022 between the City of Oroville (“City”) and Ruth Duncan. (“Duncan”).

In consideration of the terms and conditions herein, the City and Duncan agree that the Agreement shall be amended as follows:

1. SECTION 5 IS REPLACED WITH THE FOLLOWING:

City agrees to place Duncan at Step H of the Department Heads salary schedule, an annual base salary of \$175,100 effective January 8, 2024 and payable at the same time and manner as other Council Appointed Employees of the City are paid.

2. Conflicts between this Amended Agreement and the Agreement shall be controlled by this Amendment. All other provisions within the Agreement not modified by this Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

CITY OF OROVILLE

David Pittman, Mayor

Ruth Duncan
Director, Finance

APPROVED AS TO FORM:

Scott E. Huber, City Attorney

**OROVILLE CITY COUNCIL
RESOLUTION NO. 9210**

**A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND
DIRECTING THE MAYOR TO EXECUTE SECOND AMENDMENT TO THE
EMPLOYMENT AGREEMENT BETWEEN THE CITY OF OROVILLE AND RUTH
DUNCAN**

**(Amended Agreement No. 3093-3)
Amendment 2**

BE IT HEREBY RESOLVED by the Oroville City Council as follows:

- 1. The Mayor is hereby authorized and directed to execute second amendment to the employment agreement between the City of Oroville and Ruth Duncan. A copy is attached hereto as Exhibit "A".
- 2. The City Clerk shall attest to the adoption of this Resolution.

PASSED AND ADOPTED by the Oroville City Council at a regular meeting held on January 2, 2024 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

David Pittman, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott E. Huber, City Attorney

Kayla Reaster, Assistant City Clerk



CITY OF OROVILLE STAFF REPORT

TO: MAYOR PITTMAN AND COUNCIL MEMBERS

FROM: BRIAN RING, CITY ADMINISTRATOR

**RE: EMPLOYMENT CONTRACT AMENDMENT WITH RON BELSER,
DIRECTOR, CODE ENFORCEMENT**

DATE: JANUARY 2, 2024

SUMMARY

The Council will consider an amendment to the employment contract with Ron Belser, Director, Code Enforcement.

DISCUSSION

Ron Belser entered into an employment contract with the City on January 19, 2022, at a starting salary of \$118,720/year (step A), for a term of one year. On May 17, 2022, the contract was amended extending the term to January 18, 2026 and moving the salary to \$131,540/year (step C). His salary increased to \$135,486 on July 25, 2022 when a 3% Cost of Living increase was applied.

Staff recommend amending this contract with the following changes:

- A salary advancement to Step E on the Department Head salary schedule, with an annual salary of \$150,123, with an effective date January 8, 2024.

FISCAL IMPACT

This will represent an annual salary and benefits increase of approximately \$17,500 and will be absorbed in the existing budget.

RECOMMENDATION

Adopt Resolution No. XXXX – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF OROVILLE AND RONNIE BELSER – (Agreement No. 3400-1).

ATTACHMENTS:

May 17, 2022 Contract Amendment
Contract Amendment #2
Resolution

EMPLOYMENT AMENDED AGREEMENT 3400-1 BETWEEN THE CITY OF OROVILLE AND RONNIE BELSER

The employment agreement ("Agreement") is made and entered into on May 17, 2022, by and between the City of Oroville ("City") and Ronnie Belser ("Belser") to be effective January 19, 2023, both of whom understand as follows:

WHEREAS, City desires to employ the services of Belser as its Director of Code Enforcement Department; and

WHEREAS, it is the desire of the City Council ("Council") of the City to provide certain benefits, to establish certain conditions of employment and to set working conditions for Belser; and

WHEREAS, Belser desires to be employed as the Director of Code Enforcement Department of City.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties agree that the Agreement supersedes in total any prior employment agreements or Memorandum of Understandings between the parties, and further agree as follows:

Section 1. Duties:

City hereby agrees to employ Belser as the Director of Code Enforcement Department of City to perform the functions and duties specified for the position in the City Charter, Municipal Code of the City and such other legally permissible and proper duties and functions as the Council shall from time to time assign him.

Section 2. Term; Termination: Severance Compensation:

- A.** The term of this Agreement shall be effective January 19, 2023 and shall continue until January 18, 2026. Belser may exercise a (2) two-year extension of this contract if it is mutually agreeable. On or before July 18, 2025, Belser shall give written notice to City if he wishes to extend the agreement on the same terms and conditions. Thereafter the Council shall determine, within 30 days, whether or not it wishes to continue and/or extend the agreement and shall give written notice to Belser of its decision. If the Council approves the continuation and/or extension, the parties shall meet in an effort to agree upon the terms of a new or extended agreement. If the Council disapproves the continuation and/or extension, or if the parties fail to agree upon the terms of a new or extended agreement, this Agreement shall terminate as outlined above, and thereafter Belser shall not be entitled to any compensation except for any accrued vested benefits as listed above.
- B.** If Belser resigns his position as Director of Code Enforcement Department before the expiration date of the initial or any extended term of this Agreement; Belser shall give City a sixty (60) day written notice in advance to City. In such event, Belser shall not be entitled to the severance compensation provided for in Section 2.C of this Agreement. The City Administrator, in concurrence with the Council, may reduce the required notice to not less than thirty (30) days without penalty should Belser make such request.

- C. **As an at-will employee**, City may terminate this Agreement at any time with or without cause. If the City discharges Belser from his position, without cause, as Director of Code Enforcement, the City shall pay Belser a lump-sum cash payment equal to six (6) month's salary. In addition, Belser shall also be compensated for all ~~vested accrued leave time, which is currently defined as all accumulated and unused~~ **vacation time, and any administrative time not to exceed 20 hours, unless 20 hours has already been cashed out for the current fiscal year. No other leave balances or benefits under the Agreement may be cashed out upon termination of the Agreement.** However, in the event Belser is discharged for cause or for conviction of a crime, City shall have no obligation to pay any severance compensation except for any vested benefits. In any event, if the City chooses to terminate the agreement, Belser shall have the opportunity to retire from City employment through PERS, in lieu of termination.

Section 3. Random Drug Testing Policy:

Belser agrees to comply with the City of Oroville's Substance Abuse Policy Statement, as outlined in the City of Oroville's Policy and Procedures.

Section 4. Non-Industrial Injury/ Illness:

If Belser becomes permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity, or health for a period of four successive weeks beyond any accrued leave, City shall have the option to terminate the Agreement, subject to the severance pay provisions of Section 2. C.: provided, however City shall be required to comply with the provisions of the Americans with Disabilities Act and the Californian Fair Employment and Housing Act.

Section 5. Salary:

City agrees to place Belser at **Step C** of the Assistant City Administrator salary schedule, an annual base salary of **\$131,540** upon the effective date noted above and payable at the same time and manner as other Council Appointed Employees of the City are paid.

Section 6. Performance Evaluation:

The Council shall direct the City Administrator to complete a performance evaluation of Belser by December 31st of each year of the contract and during any extension period of the contract and upon the Council's concurrence with the satisfactory review, Belser may receive a salary adjustment of up to one step of the salary schedule for his base salary, for an overall evaluation of 'M' or better. Such review and evaluation shall be in accordance with specific criteria developed jointly by the City Administrator and Belser. Such criteria may be added to or deleted from, as the City Administrator may determine from time to time, in consultation with Belser. The City Administrator's evaluation of Belser will be shared with the Mayor and Council. The Mayor and Council may add additional comments to Belser's final evaluation.

Section 7. Hours of Work; Administrative Leave:

Belser shall be employed on a full-time basis, and for optimal customer service should perform such work, during normal business hours. However, it is recognized that Belser shall be required to devote a great deal of time outside of normal office hours on business of City, and to that end she shall be allowed to take 85 hours per calendar year of Administrative Leave, unless City and Belser agree upon an alternate amount of leave (which shall be documented in writing). Such leave may be taken only upon approval of the City Administrator. Belser shall have the option to cash out up to twenty (20) hours of administrative leave per calendar year.

Section 8. Bereavement Leave:

When compelled to be absent from work by reason of death of an immediate family member, or where death appears imminent, Belser shall be entitled to receive up to five (5) days Bereavement Leave, which shall not be charged against his sick leave. Before taking such leave, Belser shall notify, in writing, the City Administrator of the time of absence needed and the expected date of return to work.

The immediate family is defined as spouse; natural, step or legal child; parent; brother; sister; grandparent; grandchild; mother-in-law or father-in-law.

Section 9. Automobile Allowance:

City shall provide an automobile to Belser suitable for his use while performing his duties as the Director of Business and Housing or compensate him if no vehicle is available at the rate of \$300.00 per month in compliance with Internal Revenue Regulation Section 1.274.5T(k)(6).

Section 10. Vacation and Sick Leave:

Belser shall continue to accumulate sick leave at the rate of one (1) workday for each month of employment. Belser shall be permitted to accumulate an unlimited amount of sick leave.

Belser shall accumulate vacation leave at the rate of twenty-one (21) working days of vacation per year. Belser shall be permitted to accumulate an unlimited amount of vacation leave.

Section 11. Medical, Vision, Life, Disability and Dental Insurance:

The City shall pay one hundred percent (100%) of the premiums for Medical, Dental, Vision, Long-Term Disability and Life Insurance for Belser and his eligible dependents.

Section 12. Holidays: Belser is authorized to celebrate the following holidays:

1. New Year's Day
2. Martin Luther King Day
3. Lincoln's Birthday
4. President's Day
5. Memorial Day
6. Independence Day

- | | |
|------------------------------------|---------------------------------------|
| 7. Labor Day | 11. Last Workday Before Christmas Day |
| 8. Veteran's Day | 12. Christmas Day |
| 9. Thanksgiving Day | |
| 10. The Day After Thanksgiving Day | |

Belser shall be compensated for each holiday at the straight time compensation rate.

Section 13. Technology Fee:

City shall provide a technology allowance to Belser in the amount of \$100/month to compensate his for the use of his private cell phone and laptop/tablet for City business.

Section 14. Retirement:

Belser will pay ~~12%~~ 7% of the employee share of his CalPERS retirement contribution upon commencement of this agreement. In the event that any legislation mandates that the employee share increase above ~~12%~~ 7% during the term of this agreement or any extensions, Belser and City agree to negotiate terms for the implementation of any increase.

The City will continue to provide the single highest year benefit calculation and the 1959 Survivor Benefit at the 4th level for Belser.

Sick Leave Conversion at the Time of Retirement:

Upon regular retirement from the City of Oroville, Belser shall have the option to convert his unused sick leave balance to CalPERS service credit. ~~In the alternative, Belser may convert his unused sick leave balance to a dollar value account at the rate of one month premium for each three (3) days of accrued but unused sick leave remaining on the books at the date of retirement to pay premiums for medical, dental and vision insurance. Belser may also elect to split his unused sick leave between the CalPERS service credit and dollar value account for insurance, subject to CalPERS requirements.~~

If Belser elects to convert his unused sick leave to a dollar value account to pay for ~~medical,~~ dental and vision insurance and it becomes exhausted, Belser shall have the option of continuing ~~medical,~~ dental and vision insurance coverage at his own expense, consistent with current City policy and Federal law. If, after his retirement, Belser becomes deceased before his dollar value account has been completely utilized, the remaining benefits shall be available to the surviving eligible family members.

The City agrees to provide 100% of the cost of the least expensive health insurance plan available for employees for employee only, after retirement to employees who have completed 30 years of service or 20 years of service with the City of Oroville and are at least 5 years past their earliest retirement date provide by their CalPERS retirement plan. For example: An employee that has 2%@55 CalPERS formula would be eligible for retiree medical insurance after 20 years of service and is at least 60 years old. This benefit will continue until the employee reaches the age required to receive the Medicare benefits. If the employee wishes to add a spouse to this benefit all increased costs will be paid by the employee. Once the employee has retired and is on this benefit, the City may not withdraw from this agreement, even if this benefit is discontinued for future employees.

The City agrees to provide 75% of the cost for the least expensive health insurance plan available for employees for employee only, after retirement for employees who have completed 15 years of service with the City of Oroville and are at least 5 years past their earliest retirement date provide by their CalPERS retirement plan. This benefit will continue until the employee reaches

the age required to receive Medicare benefits. If the employee wishes to add a spouse to this benefit all increased costs will be paid by the employee. Once the employee has retired and is on this benefit, the City may not withdraw from this agreement, even if this benefit is discontinued for future employees.

The City agrees to provide 50% of the cost for the least expensive health insurance plan available for employees for employee only, after retirement for employees who have completed 10 years of service with the City of Oroville and are at least 5 years past their earliest retirement date provide by their CalPERS retirement plan. This benefit will continue until the employee reaches the age required to receive the Medicare benefit. If the employee wishes to add a spouse to this benefit all increased costs will be paid by the employee. Once the employee has retired and is on this benefit, the City may not withdraw from this agreement, even if this benefit is discontinued for future employees.

Section 15. Deferred Compensation Plan:

The City shall provide a Deferred Compensation Plan for Belser. The City shall contribute 3% of Belser's base salary to Belser's Deferred Compensation Plan. In addition, the City shall match the first 2% that Belser contributes to Belser's Deferred Compensation Plan.

Section 16. Outside Employment:

During the term of the Agreement, and any extensions thereof, Belser shall only accept outside employment that involves teaching or training related to his profession and any existing agreements. Any outside employment shall not interfere with Belser's duties as while employed by the City and no other outside employment of any kind or character is permitted without having first obtained the prior approval of the Council.

Section 17. Dues and Subscriptions:

City agrees to budget for and to pay for professional dues and subscriptions of Belser necessary for his continuation and full participation in national, regional, state and local associations and organizations as are desirable for his continued professional participation, growth and advancement, and for the good of the City; provided, however, the amount of such dues and subscriptions shall not exceed the amount appropriated therefore in the annual budget.

Section 18. Professional Development:

- A. City agrees to budget for and to pay for travel and subsistence expenses of Belser for professional and official travel, meetings, and occasions to continue the professional development of Belser, and to adequately pursue necessary official functions for City and such other national, regional, state and local governmental groups and committees thereof which Belser serves as a member; provided, however, the amount of such travel and subsistence shall not exceed the amount appropriated therefore in the annual budget.
- B. City also agrees to budget for and to pay for travel and subsistence expenses of Belser for short courses, institutes and seminars that are necessary for his professional development, and for the good of the City; provided, however, the amount of such travel and subsistence shall not exceed the amount appropriated therefore in the annual budget.

Section 19. General Expenses:

City recognizes that certain expenses of a non-personal and generally job-affiliated nature shall be incurred by Belser, and hereby agrees to reimburse or to pay such general expenses up to an amount not to exceed the amount provided for such purposes in the Business and Housing Department's portion of the annual City budget. The Finance Department is hereby authorized to disburse such monies in accordance with adopted City expense reimbursement policies.

Section 20. Civic Club Membership:

City recognizes the desirability of representation in and before local civic and other organizations, and Belser is authorized to become a member of such civic clubs or organizations. During the term of the agreement, City, at its sole discretion, may elect to pay some or all Belser's civic club membership expenses.

Section 21. Indemnification:

In addition to the requirements of state and local law, City shall defend, save harmless, and indemnify Belser against any tort, professional liability claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Belser's duties as Business and Housing Director, except for any civil action or proceeding brought against Belser for actual fraud, corruption or actual malice. City, at its sole discretion, shall compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon.

Section 22. Bonding:

City shall bear the full cost of any fidelity or other bonds required of Belser under any law or ordinance.

Section 23. Other Terms and Conditions of Employment:

It is understood and agreed by City and Belser that Belser is an "at will" employee of the City appointed by the Council under the provisions of the City Charter. As such, Belser serves at the pleasure of City and is not subject to the provisions of the City of Oroville Personnel Rules and Regulations.

Section 24. Notices:

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

- A. TO CITY: Mayor, City of Oroville, 1735 Montgomery Street, Oroville, CA 95965
- B. TO BELSER: Ronnie Belser at his permanent residence address on record with the City of Oroville

Alternatively, notices required pursuant to this Agreement may be personally served to the same persons as is applicable to civil judicial practice. Notice shall be deemed given as of the date of

personal service or as of the date of deposit of such written notice in the United States Postal Service.

Section 25. General Provisions:

- A. The text herein shall constitute the entire agreement between the parties.
- B. Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Belser.
- C. This Agreement shall not be assigned by Belser or City.
- D. This Agreement shall not be modified without the written consent of Belser and City.
- E. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

Section 26. Uniform Allowance:

On the first pay period in December, and each first pay period in December thereafter; Belser shall receive an annual clothing allowance of \$100.00. This will constitute the clothing allowance for the following calendar year.

Approved by the City Council of the City of Oroville at a meeting held May 17, 2022.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

CITY OF OROVILLE

Charles Reynolds, Mayor

Ronnie Belser,
Director of Code Enforcement

APPROVED AS TO FORM:

Scott E. Huber, City Attorney

**SECOND AMENDMENT TO EMPLOYMENT AGREEMENT BETWEEN
THE CITY OF OROVILLE AND RONNIE BELSER**

This Amendment, dated January 2, 2024, is to the Employment Agreement (“Agreement”) effective January 19, 2022, which was initially amended on May 17, 2022 between the City of Oroville (“City”) and Ronnie Belser. (“Belser”).

In consideration of the terms and conditions herein, the City and Belser agree that the Agreement shall be amended as follows:

1. SECTION 5 IS REPLACED WITH THE FOLLOWING:

City agrees to place Belser at Step E of the Department Heads salary schedule, an annual base salary of \$150,123, effective January 8, 2024 and payable at the same time and manner as other Council Appointed Employees of the City are paid.

2. Conflicts between this Amended Agreement and the Agreement shall be controlled by this Amendment. All other provisions within the Agreement not modified by this Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

CITY OF OROVILLE

David Pittman, Mayor

Ronnie Belser
Director of Code Enforcement

APPROVED AS TO FORM:

Scott E. Huber, City Attorney

**OROVILLE CITY COUNCIL
RESOLUTION NO. 9211**

**A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND
DIRECTING THE MAYOR TO EXECUTE SECOND AMENDMENT TO THE
EMPLOYMENT AGREEMENT BETWEEN THE CITY OF OROVILLE AND RONNIE
BELSER**

**(Amended Agreement No. 3400-1)
Amendment 2**

BE IT HEREBY RESOLVED by the Oroville City Council as follows:

- 1. The Mayor is hereby authorized and directed to execute second amendment to the employment agreement between the City of Oroville and Ronnie Belser. A copy is attached hereto as Exhibit "A".
- 2. The City Clerk shall attest to the adoption of this Resolution.

PASSED AND ADOPTED by the Oroville City Council at a regular meeting held on January 2, 2024 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

David Pittman, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott E. Huber, City Attorney

Kayla Reaster, Assistant City Clerk



CITY OF OROVILLE STAFF REPORT

TO: MAYOR PITTMAN AND COUNCIL MEMBERS

**FROM: BRIAN RING, CITY ADMINISTRATOR
SCOTT E. HUBER, CITY ATTORNEY**

RE: COUNCIL MEMBER COMPENSATION – SENATE BILL 329

DATE: JANUARY 2, 2024

SUMMARY

Current Council Member Compensation is set by City Charter. In addition, Council Members are currently provided a stipend memorialized in the City wide Salary Schedule. Senate Bill 329 increases the limits for City Council member compensation. The Council is being asked to consider this change and provide direction to staff.

DISCUSSION

Council member compensation for the City of Oroville is currently set by Charter (five dollars per regular meeting, not to exceed ten dollars per month). In addition, Council members are provided with a monthly stipend set by resolution, in the amount of \$600/month for the Mayor and \$500/month for Council Members. For general law cities, compensation for City Council members is governed by Government Code section 36516(a), which sets salary limits based on city population.

Senate Bill 329, signed into law in June of 2023, increases the limits for City Council member compensation; provides for the ability to increase the compensation annually; and specifies the process to be used for adopting said compensation. For cities up to and including a population of 35,000, salaries may be approved by ordinance in the amount of up to \$950/month. In addition, this amount may be increased annually beyond \$950 in an amount of up to 5 percent or the amount equal to inflation based up on the California Consumer Price Index (up to 10 percent for each calendar year), whichever is greater. Any ordinance adjusting Council compensation shall not include an automatic annual increase. Any additional annual increases must be done by new ordinance. It should be noted that, pursuant to Government Code section 36516.5, any modification to Council compensation will not take effect until a new term of office is commenced (i.e. following an election and swearing-in) of at least one Council member. Therefore, if Council compensation is adjusted pursuant to ordinance prior to the election in November 2024, the change

would not take effect until January 2025, when newly elected Council Members are installed.

The last time the Council Member stipend was adjusted was in July of 2022.

Staff will be recommending that the “Compensation” section of the Charter be removed, providing for a path in the future for Compensation to be set by Ordinance consistent with Government Code section 36516(a).

Wage data from comparable cities includes the following:

City	Population	Monthly Wage
Chico	102,338	\$1,900 (effective 1/2024)
Gridley	7,356	\$200
Marysville	12,664	\$300
Oroville	20,041	\$510
Paradise	5,268	\$300
Red Bluff	14,588	\$90
Yuba City	68,711	\$600

Options to consider moving forward are:

- Adjust existing stipend, which would go into effect in January 2025;
- At the conclusion of the Charter update, consider options moving forward, depending on the language approved by the voters; or
- Take no action.

FISCAL IMPACT

None

RECOMMENDATION

Provide direction to staff.







CITY OF OROVILLE STAFF REPORT

TO: MAYOR PITTMAN AND COUNCIL MEMBERS

FROM: PATRICK PIATT, COMMUNITY DEVELOPMENT DIRECTOR

RE: APPROVE MATERIAL PRE-PURCHASE AGREEMENTS FOR HEWITT PARK AND PROJECT UPDATE

DATE: JANUARY 2, 2023

SUMMARY

Staff is seeking Council approval to pre-purchase materials for the park in an effort to save more than \$100,000 in project funding and is providing an update to the Hewitt Park project.

DISCUSSION

On April 5, 2022, the Council accepted a grant of \$4,583,710, and established an encumbrance for program activities for Hewitt Park, Phase II, from the Statewide Park Development of Parks and Recreation Grant award program.

Melton Design Group (MDG) was approved as the project designer and project grant manager, has completed the design and is working on the bid package to release a Request for Proposals near the end of January. While designing the project, MDG identified areas where substantial saving could be realized if the City pre-purchases some of the material and equipment. By pre-purchasing materials and equipment and providing them to the contractor, the City will save the mark-up by the selected contractor which is usually 15%-20%.

An example of some of the materials that are known now to save project costs if pre-purchased are playground equipment, slides, shade structures, water feature equipment. The Approximate cost of all these items if pre-purchased is \$854,945 which represents a savings between \$128,241 and \$170,989. The actual savings realized would be based on the overhead percentage charged by the contractor.

FISCAL IMPACT

Expenditures will be funded through the Statewide Park Development of Parks and Recreation Grant award program.

RECOMMENDATION

Approve the pre-purchase of materials and equipment as deemed necessary for the project in an effort to reduce costs.

ATTACHMENTS

Park Concept Design



CITY OF OROVILLE STAFF REPORT

TO: MAYOR PITTMAN AND COUNCIL MEMBERS

**FROM: PATRICK PIATT, COMMUNITY DEVELOPMENT DIRECTOR
CONNOR MUSLER, CONTRACT PLANNER**

**RE: FIRST READING OF ZONING CODE AMENDMENT (ZC) 23-02
ADDING SECTION 17.12.120 TO THE OROVILLE MUNICIPAL
CODE (OMC) ESTABLISHING REGULATIONS FOR AL FRESCO
DINING AND AL FRESCO SEATING, AND AMENDING SECTION
17.12.070 (PARKING), 17.32.010 (ALLOWED USES IN
COMMERCIAL DISTRICTS), 17.34.020 (ALLOWED USES IN
MIXED-USE DISTRICTS), AND 12.04.030 (PLACING PRODUCE,
MERCHANDISE, ETC., ON STREETS AND SIDEWALKS)**

DATE: JANUARY 2, 2024

SUMMARY

The Council will consider adopting ZC 23-02, establishing regulations and standards for al fresco dining and al fresco seating in commercial and mixed-use districts within the City. ZC 23-02 would add Section 17.12.120 to the Oroville Municipal Code (OMC), amend Section 17.12.070 pertaining to parking standards for businesses proposing al fresco dining areas, amend Sections 17.32.010 and 17.34.020 by adding al fresco dining and seating areas as a Use-Specific Regulation in Commercial and Mixed-Use Districts, and amend Section 12.04.030 to allow the placement of dining and seating areas in the public right-of-way.

DISCUSSION

Currently, the City does not have regulations, standards, or processes for approving al fresco dining areas. During the COVID-19 Pandemic, the City established a program allowing businesses to apply for a COVID-19 Temporary Use Permit to authorize temporary outdoor dining and business operations. This temporary use permit allowed Oroville restaurants to convert existing areas on private property, such as parking, open pavement area, or underutilized landscaping, into temporary outdoor dining areas with minimal improvements.

With the COVID-19 emergency declaration now over and increasing inquiries by business owners for outdoor dining options, staff began researching ways to allow al

fresco dining on a permanent basis, with the intent to:

- Streamline the approval process for al fresco dining areas by providing clear design standards, submittal requirements, and review procedures;
- Incentivize the location and growth of restaurants within Downtown Oroville by allowing sidewalk al fresco dining areas through an administrative permitting process; and
- Create high-quality, safe, and active outdoor areas to bolster a vibrant community atmosphere.

Staff analyzed the standards set forth in the City's COVID-19 Temporary Use Permit, and the current al fresco dining regulations of nearby cities, such as Chico and Roseville, in addition to larger jurisdictions where al fresco dining may be more common like the cities of Santa Barbara and Tustin. Based on the research and outreach conducted, Staff are proposing an ordinance that would allow al fresco dining under three classifications: "Al Fresco Sidewalk Dining Area," "Al Fresco Dining Areas Outside of the Public Right-of-Way," and "Al Fresco Seating Area."

"Al Fresco Sidewalk Dining Area"

Many of the properties within Downtown Oroville, like historic downtown's in other cities, are developed and lack spaces to provide al fresco dining areas on private property. As a result, jurisdictions like the cities of Chico, Sacramento, Santa Barbara, and Tustin have adopted dining regulations that allow for dining within the public right-of-way. Staff researched these jurisdiction's regulations and analyzed the existing conditions within Downtown Oroville during the preparation of the draft al fresco ordinance and are proposing the creation of a Downtown Oroville specific "Al Fresco Sidewalk Dining Area."

The "Al Fresco Sidewalk Dining Area" is generally defined as the area bounded by High Street, Oliver Street, Arlin Rhine Memorial Drive, and Oak Street. This area is characterized by already established buildings with high development density featuring zero setback buildings and little-to-no private outdoor space to establish al fresco dining. In addition, the Gateway Site, located at the intersection of Montgomery Street and Feather River Blvd, and extending to the Purple Line Urban Winery and Bedrock Park has been included in the "Al Fresco Sidewalk Dining Area" in anticipation of future development. Under the proposed ordinance, these areas will be the only areas within the City where food service establishments will be able to use the public right-of-way to establish an al fresco dining area. Furthermore, food service establishments who fall within the "Al Fresco Sidewalk Dining Area" will be exempt from parking requirements for the seats within their al fresco dining area.

The proposed ordinance further creates two classifications of sidewalk dining: use of the existing sidewalk or widening of the sidewalk. As shown in **Figure 1**, some sidewalks within Downtown Oroville are of sufficient width to create al fresco sidewalk dining areas with minimal infrastructure improvements.



Figure 1: Existing Sidewalk on Montgomery Street

Sidewalk dining areas are limited to the frontage immediately adjacent to the business proposing to provide al fresco dining. However, some tenant spaces have small frontages that may preclude the ability to construct a dining area of sufficient size to support their business. Staff propose allowing a dining area to extend into the frontage zone of a neighboring business with the written authorization from that adjacent business and building owner(s).



Figure 2: Example of a Sidewalk Dining Area

Businesses may also propose to remove adjacent on-street parking spaces in order to widen the sidewalk to accommodate an al fresco dining area. Prior to the removal of on-street parking, findings must be made that the removal of said parking stalls will not result in an inadequate supply of parking for downtown businesses.

“Al Fresco Dining Areas Outside of the Public Right-of-Way”

Al fresco dining areas proposed at food service establishments that fall wholly on private property are proposed to be allowed city-wide in Commercial and Mixed-Use Districts, including the sub area of the DH-O, as specified in the allowed uses table found in Sections 17.32.010 and 17.34.020 of the OMC.

The proposed regulations would set forth development standards and regulations similar to those proposed for al fresco dining areas within the public right-of-way, however, there are additional requirements such as landscaping and parking provisions specific to these al fresco dining areas on private property.

On June 22, 2023, the Planning Commission conducted a public hearing and considered the proposed al fresco dining regulations. Public comment was received, and the

Planning Commission discussed the draft ordinance before directing staff to conduct further research and make modifications to ensure the regulations would allow greater flexibility for food service establishments to propose al fresco dining options. To help accomplish this, staff proposed adding “Al Fresco Seating Areas” to the draft ordinance.

“Al Fresco Seating Areas”

Al fresco seating areas at food service establishments are proposed to be allowed city-wide in Commercial and Mixed-Use Districts, including the sub area of the DH-O, as specified in the allowed uses table found in Sections 17.32.010 and 17.34.020 of the OMC.

Al fresco seating areas are differentiated from al fresco dining areas by the fact that al fresco seating areas do not include permanent improvements, such as barriers. Al fresco seating areas contained on private property and maintained in compliance with the proposed regulations do not need to be reviewed or approved by the City, thus streamlining a food service establishment’s ability to provide this amenity. If a food service establishment is proposing to add an al fresco seating area, an administrative al fresco seating area permit shall be required.

As part of this process to add Section 17.12.120 to the OMC, the following code sections are also proposed to be amended to ensure consistency with the al fresco dining ordinance:

- 17.12.070 (Parking)
- 17.32.010 (Allowed uses in commercial districts)
- 17.34.020 (Allowed uses in mixed-use districts)
- 12.04.030 (Placing produce, merchandise, etc., on streets and sidewalks)

Amendments to the aforementioned code sections pertain to establishing a minimum parking standard for al fresco dining areas, specifying the zoning districts where al fresco dining are permitted, and allowing the placement of dining and seating areas in the public right-of-way.

The proposed al fresco dining regulations were first reviewed by the Development Review Committee on February 9, 2023. The proposed regulations were then discussed at the March 2, 2023, regular meeting of the Oroville Downtown Business Association (ODBA), with a general consensus of support expressed by the meeting attendants. A workshop was subsequently held with members of the ODBA where the boundaries of the “Al Fresco Sidewalk Dining Area” were expanded to include a larger footprint of Downtown Oroville and the addition of the Gateway Site.

The Planning Commission at their August 24, 2023, meeting adopted Resolution No. 2023-17 recommending that the City Council adopt an ordinance adding Section

17.12.120 to the OMC and amend Sections 17.12.070, 17.32.010, 17.34.020, and 12.04.030, with the addition of wrought iron fences as a recommended barrier for dining areas. The Planning Commission in their motion also recommended that the City Council amend the master user and fee schedule to set a zero-dollar (\$0) application fee for sidewalk seating areas.

ENVIRONMENTAL REVIEW

The proposed Zoning Code Amendment is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

FISCAL IMPACT

There is minimal fiscal impact associated with the recommended actions.

RECOMMENDATION

1. Waive first reading and approve Ordinance No. **XXXX** **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OROVILLE ADOPTING ZC 23-02 AND AMENDING THE OROVILLE MUNICIPAL CODE BY ADDING SECTION 17.12.120 ESTABLISHING REGULATIONS AND STANDARDS FOR AL FRESCO DINING AND AMENDING SECTION 17.12.070 "PARKING," SECTION 17.32.010 "ALLOWED USES IN COMMERCIAL DISTRICTS," SECTION 17.34.020 "ALLOWED USES IN MIXED-USE DISTRICTS," AND SECTION 12.04.030 "PLACING PRODUCE, MERCHANDISE, ETC., ON STREETS AND SIDEWALKS"**
2. Adopt Resolution No. **XXXX** amending the City's master schedule of user and regulatory fees by adding Al Fresco Seating Area Permit to the Planning Fees

ATTACHMENTS

1. Ordinance No. **XXXX**
2. Resolution No. **XXXX**
3. November 16, 2023, Planning Commission Package.
4. Ordinance with Track Changes

**CITY OF OROVILLE
ORDINANCE NO. 1876**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OROVILLE ADOPTING ZONING CODE AMENDMENT (ZC) 23-02 AMENDING THE OROVILLE MUNICIPAL CODE BY ADDING SECTION 17.12.120 ESTABLISHING REGULATIONS AND STANDARDS FOR AL FRESCO DINING AND AMENDING SECTION 17.12.070 “PARKING,” SECTION 17.32.010 “ALLOWED USES IN COMMERCIAL DISTRICTS,” SECTION 17.34.020 “ALLOWED USES IN MIXED-USE DISTRICTS,” AND SECTION 12.04.030 “PLACING PRODUCE, MERCHANDISE, ETC., ON STREETS AND SIDEWALKS”

WHEREAS, the City of Oroville does not currently have standards and regulations allowing for the development of al fresco dining areas; and

WHEREAS, City staff began developing standards and regulations for al fresco dining areas in response to increasing inquiries by business owners and the growing popularity of al fresco dining following the COVID-19 Pandemic; and

WHEREAS, City staff recommend adding Section 17.12.120 to the Zoning Code of the Oroville Municipal Code establishing standards and regulations for al fresco dining and al fresco seating areas; and

WHEREAS, the intent of the standards and regulations is to streamline the approval process for al fresco dining and seating areas by providing clear design standards, submittal requirements, and review procedures; incentivize the location and growth of restaurants within Downtown Oroville by allowing sidewalk al fresco dining and seating areas through an administrative permitting process; and create high-quality, safe, and active outdoor areas to bolster a vibrant community atmosphere; and

WHEREAS, amendments are also proposed to Section 17.12.070, pertaining to the City’s parking standards, which would establish parking requirements for al fresco dining areas; and

WHEREAS, amendments are further proposed to Sections 17.32.010 and 17.34.020 adding al fresco dining areas and al fresco seating areas as a Use-Specific Regulation in commercial and mixed-use districts, respectively; and

WHEREAS, amendments are additionally proposed to Section 12.04.030, adding reference to the al fresco dining and seating area code section; and

WHEREAS, the proposed regulations were discussed at the March 2, 2023, regular meeting of the Oroville Downtown Business Association (ODBA) and an additional workshop was subsequently held with members of the ODBA where the boundaries of the “Al Fresco Sidewalk Dining Area” were expanded to include a larger footprint of Downtown Oroville and the addition of the Gateway Site; and

WHEREAS, The Planning Commission conducted a public hearing on June 22, 2023, and again on August 24, 2023, where Resolution No. 2023-17 was subsequently adopted recommending that the City Council adopt zoning code amendment (ZC) 23-02; and

WHEREAS, the proposed amendments are internally consistent with other applicable provisions of the Zoning Code, the 2030 General Plan, and compatible with the uses authorized in the applicable zoning districts for which the revisions are proposed; and

WHEREAS, the proposed Zoning Code Amendment is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; and

WHEREAS, at a duly noticed public hearing, the City Council considered the comments and concerns of public agencies, property owners, and members of the public who are potentially affected by the approval of the code changes described herein and considered the City's staff report regarding the project.

NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF OROVILLE DO ORDAIN AS FOLLOWS:

SECTION 1: Findings.

The City Council of the City of Oroville adopts and finds as true and correct the aforementioned recitals and incorporate them herein as findings.

Section 2: Amendment to the Oroville Municipal Code Adding Section 17.12.120 (Al Fresco Dining and Seating)

The Oroville Municipal Code Section 17.12.120 (Al Fresco Dining and Seating) is hereby added to the Oroville Municipal Code and read as follows:

17-12.120 Al Fresco Dining and Seating,

A. Purpose.

The purpose of the regulations and standards in this Section are to allow increased business and pedestrian traffic by providing safe and visually appealing opportunities for Al Fresco Dining and Seating. It shall be unlawful for any person to establish an Al Fresco Dining or Seating Area at any site unless approval had been obtained, as applicable, consistent with this Section.

B. Definitions.

1. Al Fresco Dining: Generally defined as permanent dining areas that are outdoors, either contained fully on private property or on city sidewalks. This

dining area shall be a separately identifiable, designated space that is accessory to the operation of a food service establishment.

2. **Al Fresco Seating:** Generally defined as temporary dining areas located immediately adjacent to or in close proximity to a food service establishment where patrons can sit and consume meals and/or non-alcoholic beverages. An al fresco seating area is characterized by non-permanent improvements where the area can be returned to its original unimproved state.
3. **Frontage Zone:** The section of the sidewalk that functions as an extension of the building, whether through entryways and doors or sidewalk cafes and sandwich boards. The frontage zone consists of both the structure and the facade of the building fronting the street, as well as the space immediately adjacent to the building.
4. **Outdoor Dining:** See “Al Fresco Dining” definition.
5. **Outdoor Seating:** See “Al Fresco Seating” definition.
6. **Pedestrian Through Zone:** The primary, accessible pathway for pedestrians that runs parallel to the street and the al fresco sidewalk dining area. This pathway shall be a minimum of six (6) feet in width.
7. **Sidewalk Dining Area:** See “Al Fresco Dining” definition.
8. **Street Furniture/Curb Zone:** The section of the sidewalk between the curb and the through zone in which street furniture and amenities, such as lighting, benches, newspaper kiosks, utility poles, tree pits, and bicycle parking are provided. The street furniture zone may also consist of green infrastructure elements, such as rain gardens or flow-through planters.

C. Applicability.

1. Al Fresco Sidewalk Dining shall be allowed only in the area identified as the “Al Fresco Sidewalk Dining Areas.” Generally, the area bounded by High Street, Oliver Street, Arlin Rhine Memorial Drive, and Oak Street, as shown in Figure 17.12.120-1, and the Gateway Site, as shown in Figure 17.12.120-2.

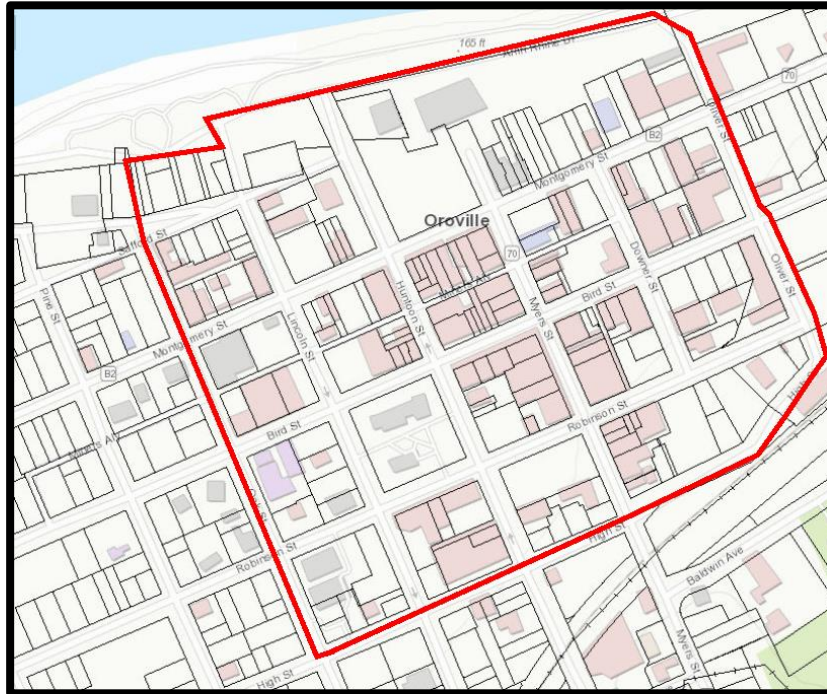


Figure 17.12.120-1

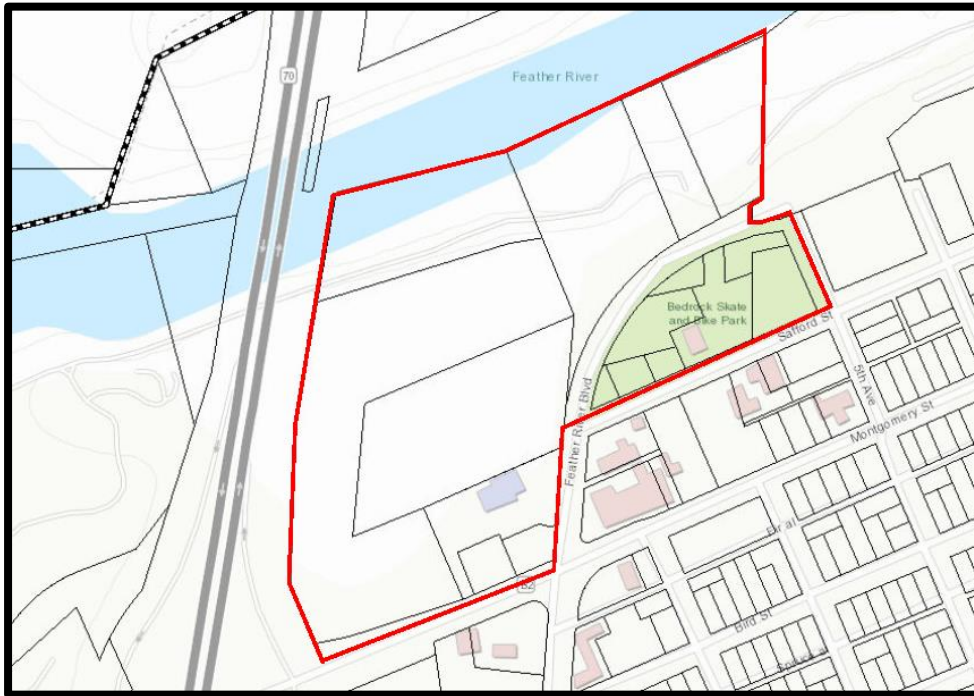


Figure 17.12.120-2

2. Al Fresco Dining Areas outside of the public right-of-way fully contained on private property shall be allowed in areas of the City zoned for commercial and mixed-use districts as specified in Sections 17.32.010 and 17.34.020 of the zoning code.

D. Al Fresco Sidewalk Dining Area.

Al Fresco Sidewalk Dining shall only be allowed within the specific sub areas as identified in subsection (C)(1) (“Applicability”).

1. Conversion of Existing Sidewalk. Sidewalk dining areas that are contained within the existing footprint of the sidewalk without requiring widening to maintain the minimum required pedestrian through zone width.

a. Design Standards

- (1) Shall be directly adjacent to the business proposing to utilize the sidewalk dining area. The al fresco dining area may also utilize the frontage zone of a neighboring business with the written authorization from the adjacent business and building owner(s) where the sidewalk dining area is proposed to extend.
- (2) A continuous barrier separating the dining area from the pedestrian zone shall be installed a minimum of three (3) feet in height but shall

not exceed four (4) feet in height. This barrier shall be constructed of solid material such as metal, stone block, glass, planter boxes, wrought iron, or a combination thereof.

- (3) Awnings, umbrellas, and similar shade covers must allow vertical clearance of a minimum of seven (7) feet above sidewalk level.
- (4) Shall comply with all ADA requirements and the City's adopted Building and Fire Code.
- (5) All signage shall comply with the City's adopted Sign Code.
- (6) Lighting shall be provided that is architecturally compatible with the design of the al fresco dining area and surrounding area.
- (7) The use of compatible awnings, umbrellas, plants, and other human scale elements is encouraged to enhance the pedestrian experience.

b. Operational Requirements

- (1) The dining area shall be kept clear of trash, litter, and debris.
- (2) Furnishings must be maintained and cleaned regularly with no ripped, faded, or otherwise damaged materials. Any unmaintained furnishing shall be repaired or replaced immediately. The restaurant manager or business owner is responsible for maintaining the al fresco dining area free of trash, litter, and food debris.
- (3) Operation of an al fresco dining area shall be permitted only during such times as the hours of operation of the associated food service establishment.
- (4) An al fresco dining operation proposing to serve alcoholic beverages must be duly licensed by the state Department of Alcoholic Beverage Control and obtain a conditional use permit pursuant to Section 17.16.160, as may be required by the subject property's zoning designation, prior to the service of alcoholic beverages.
- (5) As applicable, the applicant shall post signage that the drinking or carrying of an open container of alcohol is prohibited outside the al fresco dining area.
- (6) The al fresco dining area shall comply with the City's Noise Ordinance.
- (7) Unobstructed access to fire exits, fire lanes, fire hydrants, fire hose connections, and entrances and exits of all buildings shall be maintained.

c. Application Review Procedure and Submittal Requirements

- (1) Subject to an administrative permit approved by the Development Review Committee.
 - (2) An application for an al fresco dining area shall include a detailed site plan, drawn to scale, noting dimensions of the area proposed for the outdoor café; the proposed number and location of tables, chairs and other furnishings to be included in the al fresco dining area; the composition, design, and location of all physical barriers; the location and nature of any proposed landscaping; the relationship of the al fresco dining area to the indoor dining area; and all sidewalk obstructions in the vicinity of the proposed al fresco dining area.
 - (3) A detailed description of the type, color, and material of all proposed outdoor furniture, such as tables, chairs, barriers, planters, umbrellas, signs, and lighting shall be included with an application for an al fresco dining area.
2. Widening of Sidewalk. Sidewalk dining areas that require widening of the sidewalk to accommodate both the new dining area and the minimum required pedestrian through zone width.

a. Design Standards

- (1) Shall be directly adjacent to the business proposing to utilize the sidewalk dining area. The al fresco dining area may also utilize the frontage zone of a neighboring business with the written authorization from the adjacent business and building owner(s) where the sidewalk dining area is proposed to extend.
- (2) No more than two (2) parking spaces may be converted to widened sidewalk to facilitate any one al fresco dining area. The two (2) parking spaces that may be converted to widened sidewalk may either be: two (2) parking spaces on one (1) block, or one (1) space on each side of and directly adjacent to the corner of a block where two (2) public streets intersect.
- (3) Existing street trees shall be preserved and incorporated into the design of the dining area where possible.
- (4) Awnings, umbrellas, and similar shade covers must allow vertical clearance of a minimum of seven (7) feet above sidewalk level.
- (5) A continuous barrier separating the dining area from the pedestrian zone shall be installed a minimum of three (3) feet in height but shall

not exceed four (4) feet in height. This barrier shall be constructed of solid material such as metal, stone block, glass, planter boxes, wrought iron, or a combination thereof.

- (6) Shall comply with all ADA requirements and the City's adopted Building and Fire Code.
- (7) All signage shall comply with the City's adopted Sign Code.
- (8) Lighting shall be provided that is architecturally compatible with the design of the al fresco dining area and surrounding area.
- (9) The use of compatible awnings, umbrellas, plants, and other human scale elements is encouraged to enhance the pedestrian experience.

b. Operational Requirements

- (1) The dining area shall be kept clear of trash, litter, and debris.
- (2) Furnishings must be maintained and cleaned regularly with no ripped, faded, or otherwise damaged materials. Any unmaintained furnishing shall be repaired or replaced immediately. The restaurant manager or business owner is responsible for maintaining the al fresco dining area free of trash, litter, and food debris.
- (3) Operation of an al fresco dining area shall be permitted only during such times as the hours of operation of the associated food service establishment.
- (4) An al fresco dining operation proposing to serve alcoholic beverages must be duly licensed by the state Department of Alcoholic Beverage Control and obtain a conditional use permit pursuant to Section 17.16.160, as may be required by the subject property's zoning designation, prior to the service of alcoholic beverages.
- (5) As applicable, the applicant shall post signage that the drinking or carrying of an open container of alcohol is prohibited outside the al fresco dining area.
- (6) The al fresco dining area shall comply with the City's Noise Ordinance.
- (7) Unobstructed access to fire exits, fire lanes, fire hydrants, fire hose connections, and entrances and exits of all buildings shall be maintained.

c. Application Review Procedure and Submittal Requirements

- (1) Subject to an administrative permit approved by the Development Review Committee.
- (2) An encroachment permit shall be obtained prior to any work commencing within the public right-of-way.
- (3) Prior to approving a permit authorizing the widening of a sidewalk that results in the loss of on-street parking, findings shall be made that the loss of on-street parking will not result in an inadequate supply of parking within the downtown area.
- (4) All costs associated to the widening of sidewalk for the operation of an al fresco sidewalk dining area shall be at applicant's sole cost and expense.
- (5) An application for an al fresco dining area shall include a detailed site plan, drawn to scale, noting dimensions of the area proposed for the outdoor café; the proposed number and location of tables, chairs and other furnishings to be included in the al fresco dining area; the composition, design, and location of all physical barriers; the location and nature of any proposed landscaping; the relationship of the al fresco dining area to the indoor dining area; and all sidewalk obstructions in the vicinity of the proposed al fresco dining area.
- (6) A detailed description of the type, color, and material of all proposed outdoor furniture, such as tables, chairs, barriers, planters, umbrellas, signs, and lighting shall be included with an application for an al fresco dining area.

3. **General Liability Insurance**

- a. The applicant shall provide to the City an agreement to indemnify, defend, and hold harmless the City of Oroville, as applicable, for any and all claims for liability or damages arising from the operation of the al fresco dining area.
 - b. The restaurant operator or property owner shall provide to the City of Oroville insurance certificates and endorsements evidencing general liability insurance, workers compensation insurance, and such other insurance, in such amounts and forms as may be required by the City of Oroville Risk Manager.
4. A permit to operate an Al Fresco Sidewalk Dining Area shall be subject to termination by the City at any time upon giving written notice to the applicant and/or operator at least ten (10) days prior to the hearing upon determination of the Community Development Director that one (1) or more of the

conditions or provisions of this Section have been violated, or that one (1) or more factors listed in this Section have changed, or the permitted use is no longer compatible with the intended use of the City property, public sidewalk or other public right-of-way. No prior written notice shall be required to terminate the permit where the Community Development Director in their discretion, that the continued use of the City property, public sidewalk or other public right-of-way for the Al Fresco Dining Area poses an imminent threat to health or safety.

E. Al Fresco Dining Areas Outside of the Public Right-of-Way.

Shall apply city-wide in Commercial and Mixed-Use Districts as specified in Sections 17.32.010 and 17.34.020, including the specific sub areas as identified in subsection (C)(1) (“Applicability”).

1. Design Standards

- a. Shall not encroach or be constructed within the public right-of-way.
- b. Parking shall be provided in accordance with Section 17.12.070.
- c. A continuous barrier separating the dining area from drive aisles, parking and, pedestrian facilities shall be installed a minimum of three (3) feet in height. This barrier shall be constructed of solid material such as metal, stone block, glass, wrought iron, or a combination thereof.
- d. Awnings, umbrellas, and similar shade covers must allow vertical clearance of a minimum of seven (7) feet.
- e. Shall comply with all ADA requirements and the City’s adopted Building and Fire Code.
- f. All signage shall comply with the City’s adopted Sign Code.
- g. Lighting shall be provided that is architecturally compatible with the design of the al fresco dining area and surrounding area.
- h. The use of compatible awnings, umbrellas, plants, and other human scale elements is encouraged to enhance the pedestrian experience.

2. Operational Requirements

- a. The dining area shall be kept clear of trash, litter, and debris.
- b. Furnishings must be maintained and cleaned regularly with no ripped, faded, or otherwise damaged materials. Any unmaintained furnishing shall be repaired or replaced immediately. The restaurant manager or business owner is responsible for maintaining the al fresco dining area free of trash, litter, and food debris.

- c. Operation of an al fresco dining area shall be permitted only during such times as the hours of operation of the associated food service establishment.
- d. An al fresco dining operation proposing to serve alcoholic beverages must be duly licensed by the state Department of Alcoholic Beverage Control and obtain a conditional use permit pursuant to Section 17.16.160, as may be required by the subject property's zoning designation, prior to the service of alcoholic beverages.
- e. As applicable, the applicant shall post signage that the drinking or carrying of an open container of alcohol is prohibited outside the al fresco dining area.
- f. The al fresco dining area shall comply with the City's Noise Ordinance.
- g. Unobstructed access to fire exits, fire lanes, fire hydrants, fire hose connections, and entrances and exits of all buildings shall be maintained.

3. Application Review Procedure and Submittal Requirements

- a. New al fresco dining areas proposed to be added to an already developed site containing a food service establishment shall be subject to an administrative permit approved by the Development Review Committee.
 - (1) Al fresco dining areas proposed as part of a larger project shall be reviewed and approved by the approval body for the project.
- b. An application for an al fresco dining area shall include a detailed site plan, drawn to scale, noting dimensions of the area proposed for the al fresco dining area; the proposed number and location of tables, chairs and other furnishings to be included in the al fresco dining area; the composition, design, and location of all physical barriers; the location and nature of any proposed landscaping; the relationship of the al fresco dining area to the indoor dining area; and all sidewalk obstructions in the vicinity of the proposed al fresco dining area.
- c. A detailed description of the type, color, and material of all proposed outdoor furniture, such as tables, chairs, barriers, planters, umbrellas, signs, and lighting shall be included with an application for an al fresco dining area.

F. Al Fresco Seating Areas.

Shall apply city-wide in Commercial and Mixed-Use Districts as specified in Sections 17.32.010 and 17.34.020, including the specific sub areas as identified in subsection (C)(1) (“Applicability”).

1. Operational Standards

- a. Alcoholic beverages shall not be served or consumed in al fresco seating areas.
- b. The furnishings shall be directly adjacent to or in close proximity of the food service establishment and shall be non-permanent in nature.
- c. The outdoor seating area shall be no larger than 25% of the floor area of the associated food service establishment, or 16 seats, whichever is greater.
- d. Furnishings may be set out as early as thirty (30) minutes prior to opening and must be removed no later than thirty (30) minutes after closing of the business.
- e. Awnings, umbrellas, and similar shade covers must allow vertical clearance of a minimum of seven (7) feet.
- f. All al fresco seating areas shall comply with the City’s Noise Ordinance.
- g. The required pedestrian through zone, emergency access/exits, and fire lanes must be maintained.
- h. Furnishings must be maintained and cleaned regularly with no ripped, faded, or otherwise damaged materials. Any unmaintained furnishing shall be repaired or replaced immediately. The restaurant manager or business owner is responsible for maintaining the al fresco dining area free of trash, litter, and food debris.
- i. No furnishings shall be placed within any required parking or landscape area.
- j. No furnishings may be placed or encroach within the public right-of-way without first obtaining appropriate approvals as specified in subsection (F)(2)(b) (“Application Review Procedure and Submittal Requirements”).

2. Application Review Procedure and Submittal Requirements

- a. If a proposed al fresco seating area consists only of the temporary placement of tables and chairs contained wholly on private property during the food service establishment’s hours of operation and complies with the operational standards as detailed above in subsection (F)(1), a permit shall not be required.

- b. If a proposed al fresco seating area consists only of the temporary placement of tables and chairs in the public right-of-way during the food service establishment's hours of operation and complies with the operational standards as detailed above in subsection (F)(1), an administrative al fresco seating area permit shall be required, subject to approval by the Director of Community Development, or designee. An application for an al fresco seating area permit shall contain the following:
- (1) A site plan depicting the area within the public right-of-way proposed to be used for the al fresco seating area.
 - (2) If the proposed al fresco seating area includes the placement of furnishings in front of a business immediately adjacent to the associated food service establishment, the applicant shall submit written authorization from the adjacent business and building owner(s) to utilize the businesses frontage zone.
 - (3) Insurance certificates and endorsements evidencing general liability insurance, workers compensation insurance, and such other insurance, in such amounts and forms as may be required by the City of Oroville Risk Manager.
 - (4) An agreement to indemnify, defend, and hold harmless the City of Oroville, as applicable, for any and all claims for liability or damages arising from the operation of the al fresco seating area.

G. **Exemptions.** Al fresco dining and seating areas that deviate from the standards set forth in this Section are subject to a Conditional Use Permit, processed in accordance with Section 17.48.010.

Section 3: Amendment to the Oroville Municipal Code Section 17.12.070 (Parking)

The Oroville Municipal Code Section 17.12.070 (Parking) is hereby amended to read as follows:

17.12.070 Parking.

A. General Provisions.

1. In all districts, any parking lot or other parking area, as defined in this chapter, shall comply with the standards set forth in this section and with the city engineering design standards.

2. All required parking spaces shall be provided on-site, except as otherwise provided in this section.
3. No owner or tenant shall lease or rent required parking spaces.
4. If a required parking space is converted to another use, a replacement shall be provided in accordance with the requirements of this section.

B. New and Expanded Buildings and Uses.

1. When a building or structure is erected or a new use is initiated, minimum off-street parking spaces shall be provided as required by this section.
2. When an existing building or structure is enlarged or increased in capacity, or when a change in an existing use creates an increase in the amount of parking required, additional parking spaces shall be provided as follows:
 - a. If the increase in building size or structural area is no more than 25%, or if the increase in the amount of parking required by a change in use does not exceed 25%, then the number of off-street parking spaces required shall be based only upon the increased size of the building, structure, and/or use of the site.
 - b. If the increase in building size or structural area exceeds 25%, or if the increase in the amount of parking required by a change in use exceeds 25%, then off-street parking spaces shall be provided for all uses conducted on the site, including the existing and the increased uses of the site. In addition, the existing parking spaces shall be brought into compliance with all applicable requirements of the city building code, including its access standards for persons with disabilities.

C. Grading and Drainage.

1. Parking spaces and access driveways shall be graded and drained in accordance with city engineering design standards to alleviate the creation of flooding and drainage problems for the subject property and any surrounding properties.
2. For parking lots with 6 or more spaces, all runoff from parking and vehicular circulation areas shall be treated and filtered on-site to remove sediment and pollutants, using a method approved by the city engineering design standards, before it is discharged into the storm drain system.

D. Wheel Stops. Wheel stops with adequate anchorage, including 6-inch concrete curbs and other methods approved by the city engineering design standards, shall be provided at the front edge of all parking spaces located adjacent to property lines.

Wheel stops shall be inset from the front edge of the parking space to prevent any vehicle from overhanging property lines, walkways or landscaping.

E. **Location.** No off-street parking space may be placed where a vehicle would extend into the public right-of-way or obstruct the sight distance area at an intersection.

F. **Activities Prohibited.** No sale, storage, repair work, dismantling or servicing of any kind shall be permitted in required parking areas, unless all of the following circumstances apply:

1. The activity is a temporary use that meets the requirements of Section 17.16.060.
2. The activity uses the parking spaces for no more than 8 hours in a single day.
3. The activity occupies no more than 4 parking spaces, or 25% of the required number of parking spaces for the site, whichever number is greater.

G. **On-Site Parking for Single-Family Dwellings and Duplexes.** The following requirements shall apply to all single-family dwellings and duplexes in residential districts:

1. Vehicles shall not be parked or stored in any area other than an enclosed structure, such as a carport or garage, or a designated surface parking area that meets the requirements of this section.
2. A maximum of 3 vehicles may occupy designated surface parking areas on a single site. Additional vehicles shall be located in an enclosed structure.
3. At least one required parking space shall be located in an enclosed structure. A maximum of 2 additional parking spaces in designated surface parking areas may be counted towards the minimum parking requirement.
4. Designated surface parking areas shall comply with the following requirements:
 - a. If the designated surface parking area is located within a required minimum setback, the designated surface parking area shall not occupy more than 1/2 of the required minimum setback.
 - b. The width of the designated surface parking area shall not exceed 30 feet.
 - c. The designated surface parking area shall provide unobstructed access from a street or alley. It shall not be separated from this street or alley by a vertical curb.

- d. The designated surface parking area shall be paved with surfacing materials as required by the city engineering design standards.
- e. No portion of vehicles parked in a designated surface parking area may extend into an adjacent right-of-way.

H. **Location.**

1. For multiple-family residential uses, required parking area shall be located no more than 100 feet from any dwelling unit the parking is intended to serve.
2. For all other uses, required parking area shall be located no more than 200 feet from the entrance to the building that the parking is intended to serve.

I. **Minimum Vehicular Parking Requirements by Use.**

1. The vehicular parking requirements in Table 17.12.070-1 shall be considered minimum requirements in all districts, except as provided otherwise by this section. Parking requirements shall be cumulative whenever more than one use is present on the site, unless a shared parking reduction is granted as provided in this section.
2. Where the application of these standards would result in a fractional number of spaces, the required number of spaces shall be rounded up to the next whole number.
3. For uses that are allowed but are not specified in Table 17.12.070-1, if a use permit is required, the parking requirement shall be determined by the planning commission; in all other cases, the parking requirement shall be determined by the zoning administrator.
4. For the purposes of interpreting these requirements, each 1.5 linear feet of a bench shall be counted as one seat.
5. In all cases where the planning commission or zoning administrator is responsible for determining the minimum parking requirement, this minimum shall be based upon the following factors:
 - a. The nature of the proposed use.
 - b. The similarity of the proposed use to other land uses for which a parking requirement is specified in this section.
 - c. The hours of operation of the proposed use.
 - d. Any available data regarding the expected vehicular trip generation for the proposed use.

Table 17.12.070-1

Minimum Vehicular Parking Requirements

Land Use	Vehicular Parking Requirements
Public Assembly	
Commercial recreational facility—indoor Arcade or amusement center	1 space for each 300 square feet of gross floor area
Bowling alley	2 spaces for each lane
Skating rink	1 space for each 300 square feet of rink area, plus 1 space for each 10 fixed seats
Theater	1 space for each 5 fixed seats, or 1 space for each 100 square feet of gross floor area if no fixed seats; exceptions may be provided for theaters with more than 500 seats, subject to a use permit
Commercial recreational facility—outdoor	Determined by use permit
Gym	1 space for each 300 square feet of gross floor area
Instructional studio	1 space for each 300 square feet of gross floor area
Library or museum	1 space for each 300 square feet of gross floor area
Meeting facility	1 space for each 5 fixed seats, or 1 space for each 100 square feet of gross floor area if no fixed seats; plus additional spaces as required by this section for accessory uses, such as offices
Restaurant or café	1 space for each 100 square feet of gross floor area
School—elementary or middle school	3 spaces for each classroom
School—high school	7 spaces for each classroom
Land Use	Vehicular Parking Requirements
Residential	
Boardinghouse	1 space for each bedroom

Land Use	Vehicular Parking Requirements
Caretaker dwelling unit	1 space for each dwelling unit
Duplex	2 spaces for each dwelling unit
Emergency shelter	1 space per 10 adult beds
Family day care, large	2 spaces, in addition to those required for the dwelling unit
Family day care, small	None beyond requirement for dwelling unit
Home occupation	None beyond requirement for dwelling unit
Mobile home park	1 space for each dwelling unit, plus 1 guest parking space for each 4 dwelling units
Studio or 1 bedroom	1 space for each dwelling unit
2 or more bedrooms—projects with fewer than 14 dwelling units per acre	2 spaces for each dwelling unit
2 or more bedrooms—projects with 14 or more dwelling units per acre	1.5 spaces for each dwelling unit
Guest parking for multiple-family dwellings	1 space for each 4 dwelling units
Residential care facility—6 units or fewer	Same as requirements for applicable type of dwelling unit
Residential care facility—7 units or more	1 space for each 3 beds
Second dwelling unit	1 space for each dwelling unit
Single-family dwelling	2 spaces for each dwelling unit
Retail	
All “retail” uses listed in Ch. 17.28, except the following:	1 space for each 300 square feet of gross floor area
Alcoholic beverage sales—on-premises consumption	1 space for each 100 square feet of gross floor area
Automobile sales	1 space for each 2,000 square feet of site area
Gas station	As required for individual accessory uses; minimum of 2 spaces
Al fresco dining	1 space for each 4 seats
Mobile home, boat or recreational vehicle sales	1 space for each 1,000 square feet of site area
Services	
All “services” uses listed in Ch. 17.28, except the following:	1 space for each 300 square feet of gross floor area
Bed and breakfast	1 space for each guest room, plus 1 space for any resident manager
Car wash	2 spaces for each wash bay
Hospital	1.1 spaces for each bed

Land Use	Vehicular Parking Requirements
Hotel or motel	1 space for each guest room, plus additional spaces as required by this section for accessory uses
Mortuary	1 space for each 6 fixed seats, or 1 space for each 100 square feet of gross floor area if no fixed seats
Personal services	1 space for each 200 square feet of gross floor area
<i>Manufacturing, Wholesale, Repair and Storage</i>	
All “manufacturing, wholesale, repair and storage” uses listed in Ch. 17.28, except the following:	1 space for each 1,000 square feet of gross floor area; minimum of 2 spaces
Mini-storage facility	1 space for each 3,000 square feet of gross floor area; minimum of 4 spaces
Research laboratories	1 space for each 300 square feet of gross floor area
Warehousing	1 space for each 2,000 square feet of gross floor area used for storage, plus 1 space for each 300 square feet of other gross floor area
<i>Transportation and Infrastructure</i>	
All “transportation and infrastructure” uses listed in Ch. 17.28	1 space for each 1,000 square feet of gross floor area; minimum of 4 spaces

J. Parking Requirements in DH-O Districts. Notwithstanding any other provision of this section, in downtown historic overlay (DH-O) districts, the following minimum parking requirements shall apply:

1. For single-family residential uses in a DH-O district, no parking spaces shall be required, provided that all of the following circumstances exist:
 - a. No off-street parking spaces have already been constructed on the property.
 - b. The property qualifies as a landmark, as provided in Section 17.48.040.
2. Residential uses in a DH-O district shall be eligible for the on-street parking credit described in this section.

3. In any RP/DH-O district, all required parking spaces shall be located within the building's rear setback.

4. Seating in an al fresco dining area of a restaurant or café use within the "Al Fresco Sidewalk Dining Area" of the DH-O, as defined in Section 17.12.120(C)(1), shall not count towards the minimum vehicular parking requirements for the use.

K. Parking Requirements in the Downtown Parking Assessment District. In the area known as the "Downtown Parking Assessment District," as shown on the zoning map, no off-street parking spaces shall be required.

L. On-Street Parking Credits. In nonresidential districts, and for residential uses in a downtown historic overlay (DH-O) district, the following on-street parking credit shall apply:

1. Where the entirety of a marked, on-street parking space or bicycle parking space is adjacent to a particular site, the on-street parking space may be counted towards any off-street parking requirement for that site.

2. Where a parking plan includes access driveways or curb cuts that would cause one or more marked, on-street parking spaces or bicycle parking spaces to be eliminated, the off-street parking requirement shall be increased by the number of on-street parking spaces that are to be eliminated.

M. Multi-Family Housing.

1. Parking spaces serving multi-family housing shall be assigned to residents. Spaces shall be located as near to the resident's unit as possible, but not marked with their unit number.

2. Visitor parking areas shall be clearly designated and labeled.

3. Parking areas shall be visible from building windows and doors.

N. Minimum Bicycle Parking Requirements.

1. All nonresidential uses and multiple-family residential uses shall provide at least 2 bicycle parking spaces, or one bicycle parking space for every 20 required motor vehicle parking spaces, whichever is greater.

2. In addition to any requirements in the city engineering design standards, each bicycle parking space shall provide a securely-anchored, stationary parking device that is adequate to lock and secure a 6-foot long bicycle.

3. All bicycle parking spaces shall be conveniently located to the buildings that they serve, and pedestrian walkways shall be provided between the bicycle parking spaces and the nearest building entrance.
4. For residential uses that are required to provide bicycle parking, all required bicycle parking spaces shall be located in permanently covered areas, either inside or outdoors, that are designed to protect the bicycle from rainfall.

O. Reciprocal Access.

1. In order to provide for convenience, safety and efficient circulation, a nonresidential development project may, as a condition of development review, be required to provide reciprocal vehicle and pedestrian access between parking areas on the development site and parking areas on adjacent sites. This requirement shall not be imposed if reciprocal access is infeasible due to topography or other unusual site conditions.
2. If reciprocal vehicle access is required, a non-exclusive access easement, or an equivalent form of reciprocal access approved by the city attorney, shall be recorded on both sites.

P. Shared Parking Reduction.

1. Where vehicular parking spaces are shared and cooperatively operated by more than one use, the parking requirement for those uses may be eligible for reduction if any of the following circumstances apply:
 - a. The uses attract vehicular traffic at different hours of the day or on different days of the week.
 - b. Visitors to the site are likely to park their cars once, then visit more than one of the uses.
2. Any person seeking a shared parking reduction shall file an application with the zoning administrator.
 - a. The application shall be filed and processed as an administrative permit, in accordance with the requirements of Section 17.48.020 and the requirements of this section.
 - b. The applicant shall provide a description of each use that is to share the parking spaces, including the times of operation for each use. The applicant shall also specify the proposed number of parking spaces to be provided.
3. The zoning administrator shall grant a shared parking reduction only upon finding, based on substantial evidence, that there is no substantial conflict in the

principal operating hours of the building or uses for which the shared parking is proposed and that the proposed shared parking is conveniently located to the uses to be served. The zoning administrator may require additional documents, covenants, deed restrictions or other agreements, in a form approved by the city attorney, in order to ensure that the parking spaces are maintained and used as approved.

4. If a change in use is proposed for an establishment that has received a shared parking reduction, and this change in use is not explicitly permitted by the administrative permit granting a shared parking reduction, the establishment shall do one of the following prior to the change in use:

- a. Obtain a new administrative permit granting a shared parking reduction for the proposed new use, in accordance with the requirements of this section.
- b. Identify an appropriate method of meeting this chapter's minimum parking requirements without a shared parking reduction.

5. In no case shall a shared parking reduction be granted such that the number of shared parking spaces to be provided is less than the largest number of spaces required for any one of the individual uses that will share the parking spaces.

Q. Maximum Vehicular Parking. For all land uses other than single-family dwellings, the following maximum vehicular parking requirements shall apply:

1. The maximum number of off-street vehicular parking spaces allowed as of right shall be 125% of the minimum number specified in this section.
2. A use permit may be granted to set the maximum number of off-street vehicular parking spaces at up to 250% of the minimum specified in this section. The exact percentage shall be specified in the permit, which shall be processed in accordance with the requirements of Section 17.48.020 and the requirements of this section. The permit shall be granted only upon finding all of the following, based on substantial evidence:
 - a. The proposed use will create significant conflicts with surrounding uses unless the maximum parking requirement is increased.
 - b. The proposed increase in parking is no greater than necessary to avoid these conflicts and protect public health, safety and welfare.
3. A use permit to allow additional off-street vehicular parking may include conditions requiring additional landscaping, planting buffers and other screening that improve the aesthetic quality of the parking area.

R. **Handicapped Parking.** Parking spaces shall be provided in all parking areas for use by handicapped persons only, as required by the city building code.

S. **Parking Dimensions and Configuration.**

1. The minimum dimensions of parking spaces and aisles, and their required configuration, shall be as shown in the city engineering design standards. Up to one-third of all required parking spaces may be sized for compact cars, in accordance with the city engineering design standards.

2. Parking and aisle space shall be arranged so as to prevent backing of vehicles onto public thoroughfares. (Ord. 1749 § 4; Ord. 1804 § VIII, 2014; Ord. 1819 § 3, 2017)

Section 4: Amendment to the Oroville Municipal Code Section 17.32.010 (Allowed Uses in Commercial Districts)

The Oroville Municipal Code Section 17.32.010 (Allowed Uses in Commercial Districts) is hereby amended to read as follows:

17.32.010 Allowed uses in commercial districts.

The uses allowed in commercial districts shall be as shown in Table 17.32.010-1. These uses include:

A. **Permitted Use (P).** Uses that are shown with a “P” shall be permitted, subject to obtaining a zoning clearance, as provided in Section 17.48.030 (Zoning clearances) of this title, as well as any building permits or other permits required by this Code.

B. **Administrative Permit Required (AP).** Uses that are shown with an “AP” shall be subject to obtaining an administrative permit, as provided in Section 17.48.020 (Administrative permits) of this title.

C. **Use Permit Required (UP).** Uses that are shown with a “UP” shall be subject to obtaining a use permit, as provided in Section 17.48.010 (Use permits) of this title.

D. **Use-Specific Regulations (S).** Uses that are shown with an “S” shall be subject to permit requirements as provided in the specific regulations for that use. The table indicates where the use-specific regulations are located in this Code.

E. **Use Not Allowed (-).** Uses that are shown with a “-”, or that are not listed, shall not be allowed, except as provided in Sections 17.08.090 (Interpretation regarding allowable uses of land) and 17.48.090 (Nonconforming uses and structures) of this title.

Table 17.32.010-1

Allowed Uses in Commercial Districts

Key	
P	Permitted use, subject to zoning clearance
AP	Administrative permit required
UP	Use permit required
S	See use-specific regulations for permit requirement
-	Use not allowed

Land Use	Zoning Districts						Use-Specific Regulations
	CN	C-1	C-2	CH	CLM	OF	
Local Food Uses							
Neighborhood food and beverage sales	AP	AP	AP	AP	AP	AP	17.16.220 (Neighborhood food and beverage sales)
Urban agriculture	S	S	S	S	S	S	17.16.230 (Urban agriculture)
Public Assembly							
Carnival, circus or fair	AP	AP	AP	AP	AP	UP	17.16.060 (Temporary uses and buildings)
Commercial recreational facility-indoor, 10,000 square feet or less of gross floor area	UP	P	P	P	UP	-	-
Commercial recreational facility-indoor, more than 10,000 square feet of gross floor area	-	UP	P	UP	UP	-	-
Commercial recreational facility-outdoor	-	UP	P	-	UP	-	-
Concert or performance	AP	AP	AP	AP	AP	-	17.16.060 (Temporary uses and buildings)
Library or museum	-	UP	UP	UP	UP	UP	-
Meeting facility—10,000 square feet or less of gross floor area	P	P	P	UP	UP	P	-

Land Use	Zoning Districts						Use-Specific Regulations
	CN	C-1	C-2	CH	CLM	OF	
Meeting facility-more than 10,000 square feet of gross floor area	-	UP	P	-	UP	UP	-
Park or playground	UP	UP	UP	UP	UP	UP	-
School, public	-	P	P	UP	UP	UP	-
School, private	-	P	P	-	-	UP	-
Training facility	-	UP	UP	-	-	UP	-
Residential							
Caretaker residence	UP	UP	UP	UP	UP	-	-
Family day care, large	S	S	S	S	S	-	17.16.050 (Family day care homes)
Family day care, small	P	P	P	P	P	-	17.16.050 (Family day care homes)
Home occupation, low-impact	P	P	P	-	-	-	17.16.040 (Home occupations)
Home occupation, moderate-impact	AP	AP	AP	-	-	-	17.16.040 (Home occupations)
Residential care facility—6 units or fewer	P	P	P	P	P	-	-
Residential care facility—7 units or more	-	-	-	-	-	-	-
Retail							
Alcoholic beverage sales	UP	UP	UP	-	-	-	-
Al fresco dining areas	S	S	S	S	S	-	17.12.120 (Al Fresco Dining and Seating)
Al fresco seating areas	S	S	S	S	S	-	17.12.120 (Al Fresco Dining and Seating)
Building supply	-	-	P	-	P	-	-
Cannabis retail	-	-	-	-	-	-	-
Equipment and machinery sales or rental	-	-	P	-	P	-	-
Drive-through establishment—pharmacy	P	P	P	P	P	-	17.16.080 (Drive-through establishments)
Drive-through establishment—all other uses	UP	UP	UP	UP	UP	-	17.16.080 (Drive-through establishments)
Farmers' market	AP	AP	AP	AP	AP	AP	17.16.060 (Temporary uses and buildings)

Land Use	Zoning Districts						Use-Specific Regulations
	CN	C-1	C-2	CH	CLM	OF	
Food and beverage sales—10,000 square feet or less of gross floor area	P	P	P	P	P	-	-
Food and beverage sales—10,001 to 40,000 feet of gross floor area	UP	P	P	UP	-	-	-
Food and beverage sales—more than 40,000 square feet of gross floor area	-	P	P	UP	-	-	-
Funeral merchandise sales	-	UP	UP	-	-	UP	-
Gas station	-	UP	P	P	P	-	17.16.070 (Gas stations)
General retail—10,000 square feet or less of gross floor area	P	P	P	P	P	-	-
General retail—10,001 to 40,000 feet of gross floor area	UP	P	P	UP	P	-	-
General retail—more than 40,000 square feet of gross floor area	-	UP	P	UP	UP	-	-
Mobile food vendor	AP	AP	AP	AP	AP	AP	17.16.150 (Mobile food vending)
Pet store	UP	UP	UP	-	-	-	17.16.120 (Animal keeping)
Plant nursery or garden supply store	UP	P	P	P	-	-	-
Restaurant or café	P	P	P	P	P	-	-
Seasonal holiday agricultural sales	AP	AP	AP	AP	AP	-	17.16.060 (Temporary uses and buildings)
Shopping center	UP	UP	P	UP	UP	-	-
Smoke shop	UP	UP	UP	UP	UP	UP	17.16.190 (Smoke shops)
Vehicle sales—automobile, new	-	UP	P	UP	P	-	-
Vehicle sales—all other	-	-	UP	UP	UP	-	-
Services							
Animal grooming	UP	UP	UP	-	-	-	17.16.120 (Animal keeping)
Animal keeping, noncommercial	P	P	P	P	P	-	17.16.120 (Animal keeping)

Land Use	Zoning Districts						Use-Specific Regulations
	CN	C-1	C-2	CH	CLM	OF	
Bank or financial service	P	P	P	-	P	P	-
Bed and breakfast	UP	P	P	P	-	-	-
Business support service	P	P	P	P	P	P	-
Cannabis testing	-	-	-	-	-	-	-
Car wash	-	UP	P	P	P	-	17.16.090 (Car and vehicle washes)
Catering service	-	P	P	-	P	-	-
Child day care center	P	P	P	UP	UP	-	-
Gym	P	P	P	-	P	-	-
Hospital	-	UP	UP	-	-	-	-
Hotel or motel	-	UP	P	UP	UP	-	-
Instructional or production studio	P	P	P	-	P	P	-
Kennel	-	-	UP	-	UP	-	17.16.120 (Animal keeping)
Mortuary	-	UP	UP	UP	P	UP	-
Office—professional	P	P	P	-	P	P	-
Office—all other	P	P	P	-	P	P	-
Outpatient services	UP	P	P	-	-	-	-
Personal services—low-impact	P	P	P	P	P	-	-
Personal services—moderate-impact	UP	UP	UP	UP	UP	-	-
Recreational vehicle (RV) park	-	-	UP	P	UP	-	-
Substance abuse counseling	-	-	P	-	P	-	-
Temporary real estate office	AP	AP	AP	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Temporary uses not listed here	S	S	S	S	S	S	17.16.060 (Temporary uses and buildings)
Veterinarian	UP	UP	P	-	P	-	17.16.120 (Animal keeping)
Manufacturing, Wholesale, Repair and Storage							
Food or beverage production	-	UP	UP	-	UP	-	-
Landscape material sales	-	UP	UP	-	P	-	-
Manufacturing—20,000 square feet or less of gross floor area	-	UP	P	-	P	P	-

Land Use	Zoning Districts						Use-Specific Regulations
	CN	C-1	C-2	CH	CLM	OF	
Manufacturing—more than 20,000 square feet of gross floor area	-	-	UP	-	UP	UP	-
Metalwork—20,000 square feet or less of gross floor area	-	UP	UP	P	P	UP	-
Metalwork—more than 20,000 square feet of gross floor area	-	-	UP	UP	UP	UP	-
Mini-storage facility	S	S	S	-	S	-	17.16.060 17.44.060 (MS-O-Mini-storage overlay)
Outdoor storage—250 square feet or less	P	P	P	P	P	P	17.16.140 (Outdoor storage)
Outdoor storage—more than 250 square feet	UP	UP	P	UP	P	UP	17.16.140 (Outdoor storage)
Recycling facility or center	-	UP	P	-	P	-	-
Repair service, large equipment—20,000 square feet or less of gross floor area	UP	UP	P	P	P	-	-
Repair service, large equipment—more than 20,000 square feet of gross floor area	-	-	UP	UP	UP	-	-
Repair service, small appliances	P	P	P	-	P	-	-
Research laboratories	-	-	UP	-	UP	UP	-
Scrap or dismantling yard	-	-	-	-	UP	-	-
Vehicle service or repair	-	UP	P	P	P	-	-
Warehousing	-	-	-	-	P	-	-
Transportation and Infrastructure							
Parking garage or lot as primary use	UP	UP	P	-	UP	UP	-
Public safety facility	UP	UP	UP	UP	UP	UP	-
Solar energy system, Tier 1	P	P	P	P	P	P	17.16.180 (Solar energy systems)
Solar energy system, Tier 2	AP	AP	AP	AP	AP	AP	17.16.180 (Solar energy systems)
Solar energy system, Tier 3	UP	UP	UP	UP	UP	UP	17.16.180 (Solar energy systems)

Land Use	Zoning Districts						Use-Specific Regulations
	CN	C-1	C-2	CH	CLM	OF	
Utility building or substation	P	P	P	P	P	P	-
Vehicle depot	-						

(Ord. 1749 § 4; Ord. 1763 §§ 18, 23, 24, 26; Ord. 1769 § 9; Ord. 1775 § 7; Ord. 1778 § 4; Ord. 1784 § 7; Ord. 1794 § 2; Ord. 1819 § 7, 2017; Ord. 1830 § 6, 2018; Ord. 1834 § 4, 2019; Ord. 1850 § 3, 2021)

Section 5: Amendment to the Oroville Municipal Code Section 17.34.020 (Allowed Uses in Mixed-Use Districts)

The Oroville Municipal Code Section 17.34.020 (Allowed Uses in Mixed-Use Districts) is hereby amended to read as follows:

17.34.020 Allowed uses in mixed-use districts.

Table 17.34.020-1 shows the uses allowed in the mixed-use districts. These uses include:

- A. **Permitted Use (P).** Uses shown with a “P” are permitted by-right with zoning clearance approval. See Section 17.48.030 (Zoning clearances).
- B. **Administrative Permit Required (AP).** Uses shown with an “AP” require an administrative permit. See Section 17.48.020 (Administrative permits).
- C. **Use Permit Required (UP).** Uses shown with a “UP” require a use permit. See Section 17.48.010 (Use permits).
- D. **Use-Specific Regulations (S).** Uses shown with an “S” must comply with specific regulations for that use. The table identifies the section number for the use-specific regulations.
- E. **Use Not Allowed (-).** Uses shown with a “-” or that are not listed, are not allowed.

Table 17.34.020-1:

Allowed Uses in Mixed-Use Districts

Key	
P	Permitted use, subject to zoning clearance

AP	Administrative permit required
UP	Use permit required
S	See use-specific regulations for permit requirement
-	Use not allowed

Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
Local Food Uses				
Neighborhood food and beverage sales	AP	AP	AP	17.16.220 (Neighborhood food and beverage sales)
Urban agriculture	S	S	S	17.16.230 (Urban agriculture)
Public Assembly				
Carnival, circus or fair	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Commercial recreational facility—indoor, 10,000 square feet or less of gross floor area	UP	UP	P	
Commercial recreational facility—indoor, more than 10,000 square feet of gross floor area	UP	UP	UP	
Commercial recreational facility—outdoor	-	-	UP	
Concert or performance	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Library or museum	UP	UP	UP	
Meeting facility—10,000 square feet or less of gross floor area	P	P	P	
Meeting facility—more than 10,000 square feet of gross floor area	UP	UP	P	
Park or playground	UP	UP	UP	
School, public	UP	UP	UP	
School, private	UP	UP	UP	
Training facility	UP	UP	UP	
Residential [1]				
Caretaker residence	UP	UP	-	

Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
Family day care, large	S	S	S	17.16.050 (Family day care homes)
Family day care, small	P	P	P	17.16.050 (Family day care homes)
Home occupation, low-impact	S	S	S	17.16.040 (Home occupation)
Home occupation, moderate-impact	S	S	S	17.16.040 (Home occupation)
Mixed-use development	P	P	P	17.16.030 (Mixed-use development)
Multiple-family dwellings [1]	-	P	P	
Residential care facility—6 units or fewer	P	P	P	
Residential care facility—7 units or more	UP	UP	-	
Retail				
Alcoholic beverage sales	UP	UP	UP	
Al fresco dining areas	S	S	S	17.12.120 (Al Fresco Dining and Seating)
Al fresco seating areas	S	S	S	17.12.120 (Al Fresco Dining and Seating)
Building supply	-	-	-	
Equipment and machinery sales or rental	-	-	-	
Drive-through establishment—pharmacy	-	-	UP	17.16.080 (Drive-through establishments)
Drive-through establishment all other uses	-	-	UP	17.16.080 (Drive-through establishments)
Farmers market	AP	AP	AP	
Food and beverage sales—10,000 square feet or less of gross floor area	P	P	P	
Food and beverage sales—10,001 to 40,000 square feet of gross floor area	UP	P	P	
Food and beverage sales—more than 40,000 square feet of gross floor area	UP	UP	P	
Funeral merchandise sales	UP	UP	UP	
Gas station	-	-	UP	17.16.070 (Gas stations)
General retail—10,000 square feet or less of gross floor area	P	P	P	

Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
General retail—10,001 to 40,000 feet of gross floor area	UP	P	P	
General retail—more than 40,000 square feet of gross floor area	-	UP	UP	
Mobile food vendor	AP	AP	AP	17.16.150 (Mobile food vending)
Pet store	UP	UP	UP	17.16.120 (Animal keeping)
Plant nursery or garden supply store	UP	UP	P	
Restaurant or café	P	P	P	
Seasonal holiday agricultural sales	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Shopping center, 1,000 square feet or less of gross floor area	P	P	P	
Shopping center, 1,000 square feet or greater of gross floor area	P	UP	P	
Smoke shop	UP	UP	UP	17.36.010 (Allowed uses in industrial districts)
Vehicle sales—automobile, new	-	-	P	
Vehicle sales—all other	-	-	UP	
Services				
Animal grooming	UP	UP	UP	17.16.120 (Animal keeping)
Animal keeping, noncommercial	P	P	P	17.16.120 (Animal keeping)
Bank or financial service	P	P	P	
Bed and breakfast	P	P	P	
Business support service	P	P	P	
Car wash	-	UP	UP	17.16.090 (Car and vehicle washes)
Catering service	P	P	P	
Child day care center	P	P	P	
Gym	P	P	P	
Hospital	-	-	-	
Hotel or motel	UP	-	UP	
Instructional or production studio	P	-	P	
Kennel	-	-	UP	17.16.120 (Animal keeping)

Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
Mortuary	UP	-	UP	
Office—professional	P	P	P	
Office—all other	P	P	P	
Outpatient Services	UP	UP	UP	
Personal services—low-impact	P	P	P	
Personal services—moderate-impact	UP	UP	UP	
Temporary real estate office	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Temporary uses not listed here	S	S	S	17.16.060 (Temporary uses and buildings)
Veterinarian	UP	UP	P	17.16.120 (Animal keeping)
<i>Manufacturing, Wholesale, Repair, and Storage</i>				
Food or beverage production	UP	-	UP	
Landscape material sales	-	-	UP	
Manufacturing—20,000 square feet or less of gross floor area	UP	-	UP	
Metalwork—10,000 square feet or less of gross floor area	UP	-	UP	
Mini-storage facility	-	-	-	17.44.060 (MS-O: mini-storage overlay)
Outdoor storage—250 square feet or less	-	-	P	17.16.140 (Outdoor storage)
Outdoor storage—more than 250 square feet	UP	UP	UP	17.16.140 (Outdoor storage)
Repair service, large equipment—20,000 square feet or less of gross floor area	-	-	UP	
Repair service, small appliances	P	P	P	
<i>Transportation and Infrastructure</i>				
Parking garage or lot as primary use	UP	UP	UP	
Public safety facility	UP	UP	UP	
Solar energy system, Tier 1	P	P	P	17.16.180 (Solar energy systems)
Solar energy system, Tier 2	AP	AP	AP	17.16.180 (Solar energy systems)
Solar energy system, Tier 3	UP	UP	UP	17.16.180 (Solar energy systems)

Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
Utility building or substation	P	P	P	

[1] Residential uses in the downtown mixed-use district are permitted only on upper stories above ground floor commercial uses.

(Ord. 1819 § 8, 2017; Ord. 1830 § 7, 2018)

Section 6: Amendment to the Oroville Municipal Code Section 12.04.030 (Placing Produce, Merchandise, etc. on Streets and Sidewalks)

The Oroville Municipal Code Section 12.04.030 (Placing Produce, Merchandise, etc. on Streets and Sidewalks) is hereby amended to read as follows:

12.04.030 Placing produce, merchandise, etc., on streets and sidewalks.

Except as provided in this chapter, Section 17.12.120, and Section 17.16.130, it is unlawful for any person to leave or cause to be left, place or cause to be placed, on any sidewalk, alley, gutter or street within the city, any produce, wares, merchandise, store boxes, other substances or material, objects or implements whatsoever of any class, kind or character, except for short periods during the loading or discarding of such articles; provided, however, that bicycles may be placed in the gutter or street. (Code 1954 § 19.6; Ord. 1533 § 1; Ord. 1750 § 10)

Section 7: Environmental Determination.

Zoning Code Amendment ZC23-02 is not subject to the provisions of the California Environmental Quality Act (“CEQA”) pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Section 8: Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any 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 passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Section 9: Effective Date.

This ordinance shall take effect thirty (30) days after the date of its final adoption. The City Clerk shall certify to adoption thereof and cause its publication according to law.

PASSED AND ADOPTED by the City Council of the City of Oroville at a regular meeting held on this 2nd day of January 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

David Pittman, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott E. Huber, City Attorney

Kayla Reaster, Assistant City Clerk

RESOLUTION NO. 9212

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OROVILLE AMENDING THE CITY'S MASTER SCHEDULE OF USER AND REGULATORY FEES PERTAINING TO THE ADDITION OF A NEW AL FRESCO SEATING AREA PERMIT FEE

WHEREAS, user and regulatory fees are established by the City Council; and

WHEREAS, on February 21, 2023, the City Council conducted a public hearing and adopted Resolution No. 9127, adopting an updated schedule of user and regulatory fees; and

WHEREAS, the Planning Commission of the City of Oroville at a regular meeting on August 24, 2023, adopted Resolution No. 2023-17, which in-part, recommended that the City Council adopt a zero-dollar (\$0) permit fee for al fresco seating areas; and

WHEREAS, at a duly noticed public hearing, the City Council considered the comments and concerns of public agencies, property owners, and members of the public who are potentially affected by the approval of the changes described herein and considered the City's staff report regarding the project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OROVILLE AS FOLLOWS:

SECTION 1. The City Council of the City of Oroville adopts and finds as true and correct the aforementioned recitals and incorporates them herein as findings.

SECTION 2. The City Council hereby adopts the amended master schedule of user and regulatory fees by adding a zero-dollar (\$0) permit fee for an al fresco seating area permit to the Planning Fees.

SECTION 3. California Government Code Section 66017, which outlines procedures for adopting fees, any new or increased development fees adopted by the City Council shall go into effect not sooner than 60 days after adoption. Consequently, the proposed amendment shall have an effective date of March 5, 2024.

PASSED AND ADOPTED by the City Council of the City of Oroville at a regular meeting held on this 2nd day of January 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

David Pittman, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott E. Huber, City Attorney

Kayla Reaster, Assistant City Clerk

Attachment 3



City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street
 Oroville, CA 95965-4897
 (530) 538-2430 FAX (530) 538-2426
www.cityoforoville.org

PLANNING COMMISSION STAFF REPORT

Thursday, August 24, 2023

RE: Consideration of Zoning Code Amendment (ZC) 23-02 adding Section 17.12.120 to the Oroville Municipal Code (OMC) establishing regulations for al fresco dining and al fresco seating, and amending Section 17.12.070 (Parking), 17.32.010 (Allowed Uses in Commercial Districts), 17.34.020 (Allowed Uses in Mixed-Use Districts), and 12.04.030 (Placing Produce, Merchandise, etc., on Streets and Sidewalks).

SUMMARY: The Planning Commission will consider recommending that the City Council adopt ZC 23-02, establishing regulations and standards for al fresco dining and al fresco seating in commercial and mixed-use districts within the City. ZC 23-02 would add Section 17.12.120 to the Oroville Municipal Code (OMC), amend Section 17.12.070 pertaining to parking standards for businesses proposing al fresco dining areas, amend Sections 17.32.010 and 17.34.020 by adding al fresco dining and seating areas as a Use-Specific Regulation in Commercial and Mixed-Use Districts, and amend Section 12.04.030 to allow the placement of dining and seating areas in the public right-of-way.

RECOMMENDATION: Staff recommends the following actions:

1. **Conduct a Public Hearing** on the proposed Zoning Code Amendment.
2. **Adopt** Resolution No. 2023-17 Recommending that the City Council adopt an ordinance adding Section 17.12.120 to the OMC and amend Sections 17.12.070, 17.32.010, 17.34.020, and 12.04.030.

APPLICANT: City of Oroville

LOCATION: City-Wide

GENERAL PLAN: N/A

ZONING: N/A

FLOOD ZONE: N/A

ENVIRONMENTAL DETERMINATION: The proposed Zoning Code Amendment is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

REPORT PREPARED BY:

REVIEWED BY:

 Connor Musler, Contract Planner
 Community Development Department

 Patrick Piatt, Director
 Community Development Department

DISCUSSION

Currently, the City does not have regulations, standards, or processes for approving al fresco dining areas. During the COVID-19 Pandemic, the City established a program allowing businesses to apply for a COVID-19 Temporary Use Permit to authorize temporary outdoor dining and business operations. This temporary use permit allowed Oroville restaurants to convert existing areas on private property, such as parking, open pavement area, or underutilized landscaping, into temporary outdoor dining areas with minimal improvements.

With the COVID-19 emergency declaration now over and increasing inquiries by business owners for outdoor dining options, staff began researching ways to allow al fresco dining on a permanent basis, with the intent to:

- Streamline the approval process for al fresco dining areas by providing clear design standards, submittal requirements, and review procedures;
- Incentivize the location and growth of restaurants within Downtown Oroville by allowing sidewalk al fresco dining areas through an administrative permitting process; and
- Create high-quality, safe, and active outdoor areas to bolster a vibrant community atmosphere.

Staff analyzed the standards set forth in the City's COVID-19 Temporary Use Permit, and the current al fresco dining regulations of nearby cities, such as Chico and Roseville, in addition to larger jurisdictions where al fresco dining may be more common like the cities of Santa Barbara and Tustin. Based on the research and outreach conducted, Staff are proposing an ordinance that would allow al fresco dining under three classifications: "Al Fresco Sidewalk Dining Area," "Al Fresco Dining Areas Outside of the Public Right-of-Way," and "Al Fresco Seating Area."

"Al Fresco Sidewalk Dining Area"

Many of the properties within Downtown Oroville, like other cities downtown's, are developed and lack spaces to provide al fresco dining areas on private property. As a result, jurisdictions like the cities of Chico, Sacramento, Santa Barbara, and Tustin have adopted dining regulations that allow for dining within the public right-of-way. Staff researched these jurisdiction's regulations and analyzed the existing conditions within Downtown Oroville during the preparation of the draft al fresco ordinance and are proposing the creation of a Downtown Oroville specific "Al Fresco Sidewalk Dining Area."

The "Al Fresco Sidewalk Dining Area" is generally defined as the area bounded by High Street, Oliver Street, Arlin Rhine Memorial Drive, and Oak Street. This area is characterized by already established buildings with high development density featuring zero setback buildings and little-to-no private outdoor space to establish al fresco dining. In addition, the Gateway Site, located at the intersection of Montgomery Street and Feather River Blvd, and extending to the Purple Line Urban Winery and Bedrock Park has been included in the "Al Fresco Sidewalk Dining Area." Under the proposed

ordinance, these areas will be the only areas within the City where food service establishments will be able to use the public right-of-way to establish an al fresco dining area. Furthermore, food service establishments who fall within the “Al Fresco Sidewalk Dining Area” will be exempt from parking requirements for the seats within their al fresco dining area.

The proposed ordinance further creates two classifications of sidewalk dining: use of the existing sidewalk or widening of the sidewalk. As shown in **Figure 1**, some sidewalks within Downtown Oroville are of sufficient width to create al fresco sidewalk dining areas with minimal infrastructure improvements.



Figure 1: Existing Sidewalk on Montgomery Street

Sidewalk dining areas are limited to the frontage immediately adjacent to the business proposing to provide al fresco dining. However, some tenant spaces have small frontages that may preclude the ability to construct a dining area of sufficient size to support their business. Staff propose allowing a dining area to extend into the frontage zone of a neighboring business with the written authorization from that adjacent business and building owner(s).



Figure 2: Example of a Sidewalk Dining Area

Businesses may also propose to remove adjacent on-street parking spaces in order to widen the sidewalk to accommodate an al fresco dining area. Prior to the removal of on-street parking, findings must be made that the removal of said parking stalls will not result in an inadequate supply of parking for downtown businesses.

“Al Fresco Dining Areas Outside of the Public Right-of-Way”

Al fresco dining areas proposed at food service establishments that fall wholly on private property are proposed to be allowed city-wide in Commercial and Mixed-Use Districts, including the sub area of the DH-O, as specified in the allowed uses table found in Sections 17.32.010 and 17.34.020 of the OMC.

The proposed regulations would set forth development standards and regulations similar to those proposed for al fresco dining areas within the public right-of-way, however, there are additional requirements such as landscaping and parking provisions specific to these al fresco dining areas on private property.

On June 22, 2023, the Planning Commission conducted a public hearing and considered the proposed al fresco dining regulations. Public comment was received, and the Planning Commission discussed the draft ordinance before directing staff to conduct further research and make modifications to ensure the regulations would allow greater flexibility for food service establishments to propose al fresco dining options. To help

accomplish this, staff are proposing to add “Al Fresco Seating Areas” to the draft ordinance.

“Al Fresco Seating Areas”

Al fresco seating areas at food service establishments are proposed to be allowed city-wide in Commercial and Mixed-Use Districts, including the sub area of the DH-O, as specified in the allowed uses table found in Sections 17.32.010 and 17.34.020 of the OMC.

Al fresco seating areas are differentiated from al fresco dining areas by the fact that al fresco seating areas do not include permanent improvements, such as barriers. Al fresco seating areas contained on private property and maintained in compliance with the proposed regulations do not need to be reviewed or approved by the City, thus streamlining a food service establishment’s ability to provide this amenity. If a food service establishment is proposing to add an al fresco seating area, an administrative al fresco seating area permit shall be required.

Furthermore, since the Planning Commission last reviewed the draft ordinance, staff are proposing additional revisions. These proposed revisions are shown as red text in the draft al fresco dining and seating ordinance. Revisions were also made for clarity, formatting, and to maintain consistent language and terminology throughout the draft ordinance.

As part of this process to add Section 17.12.120 to the OMC, the following code sections are also proposed to be amended to ensure consistency with the al fresco dining ordinance:

- 17.12.070 (Parking)
- 17.32.010 (Allowed uses in commercial districts)
- 17.34.020 (Allowed uses in mixed-use districts)
- 12.04.030 (Placing produce, merchandise, etc., on streets and sidewalks)

Amendments to the aforementioned code sections pertain to establishing a minimum parking standard for al fresco dining areas, specifying the zoning districts where al fresco dining are permitted, and allowing the placement of dining and seating areas in the public right-of-way.

The proposed al fresco dining regulations were first reviewed by the Development Review Committee on February 9, 2023. The proposed regulations were then discussed at the March 2, 2023, regular meeting of the Oroville Downtown Business Association (ODBA), with a general consensus of support expressed by the meeting attendants. A workshop was subsequently held with members of the ODBA where the boundaries of the “Al Fresco Sidewalk Dining Area” were expanded to include a larger footprint of Downtown Oroville and the addition of the Gateway Site.

GENERAL PLAN CONSISTENCY

This proposed ordinance helps implement the following goals and policies of the City's 2030 General Plan:

General Plan Goals:

Goal LU-2 "Develop an economically vital, pedestrian-oriented Historic Downtown that includes retail, office, residential, civic, cultural, and recreational uses."

Goal CD-1 As the community grows, maintain a coherent and distinctive physical form and structure that reflects Oroville's unique qualities.

Goal CD-5 Establish the Historic Downtown Business District as the "Heart of the City" focusing on its unique historic, civic, cultural, and natural amenities.

Goal CD-7 Develop Oroville's major corridors as attractive locations with a diverse mix of land uses and development patterns that include high quality pedestrian-oriented design.

General Plan Policies:

P1.1 Require quality architectural and landscaping design as well as durable and efficient materials for all projects.

P2.2 Promote development that maintains and reinforces the Historic Downtown as the geographic and economic center of Oroville.

P2.5 Encourage the location of businesses, services and civic facilities in the Historic Downtown that provide entertainment, visitor services and cultural enrichment and extend the hours during which the Historic Downtown is an active place.

P5.4 Encourage a diversity of uses in the Historic Downtown, including commercial and civic, that will ensure a lively day and evening presence and reinforce the unique qualities of the Historic Downtown as Oroville's community center.

P6.1 New development in commercial, industrial, and business park districts shall include human-scale details in the design of buildings to create a visually interesting pedestrian environment. Blank walls adjacent to pedestrian circulation areas shall be discouraged.

P7.2 New commercial development along Oroville's major corridors shall include building frontages with human-scale design elements, varied and articulated facades, and entries oriented to public sidewalks or pedestrian pathways. Building facades located along pedestrian pathways and public rights-of-way shall also have window openings and shall not consist of solid blank walls.

FISCAL IMPACT

None.

ATTACHMENTS

A. Resolution No. 2023-17

- B. Proposed AI Fresco Dining and Seating OMC Section 17.12.120
- C. Proposed Changes to OMC Section 17.12.070 (Parking)
- D. Proposed Changed to OMC Section 17.32.010 (Allowed uses in commercial districts)
- E. Proposed Changes to OMC Section 17.34.020 (Allowed uses in mixed-use districts)
- F. Proposed Changes to OMC Section 12.04.030 (Placing produce, merchandise, etc., on streets and sidewalks)

RESOLUTION NO. P2023-17

A RESOLUTION OF THE OROVILLE PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT ZC 23-02, THE PROPOSED AMENDMENTS TO THE OROVILLE MUNICIPAL CODE BY ADDING SECTION 17.12.120 ESTABLISHING REGULATIONS AND STANDARDS FOR AL FRESCO DINING AND AMENDING SECTION 17.12.070 “PARKING,” SECTION 17.32.010 “ALLOWED USES IN COMMERCIAL DISTRICTS,” SECTION 17.34.020 “ALLOWED USES IN MIXED-USE DISTRICTS,” AND SECTION 12.04.030 “PLACING PRODUCE, MERCHANDISE, ETC., ON STREETS AND SIDEWALKS”

WHEREAS, the City of Oroville does not currently have standards and regulations allowing for the development of al fresco dining areas; and

WHEREAS, City staff began developing standards and regulations for al fresco dining areas in response to increasing inquiries by business owners and the growing popularity of al fresco dining following the COVID-19 Pandemic; and

WHEREAS, City staff recommend adding Section 17.12.120 to the Zoning Code of the Oroville Municipal Code establishing standards and regulations for al fresco dining and al fresco seating areas; and

WHEREAS, the intent of the standards and regulations is to streamline the approval process for al fresco dining and seating areas by providing clear design standards, submittal requirements, and review procedures; incentivize the location and growth of restaurants within Downtown Oroville by allowing sidewalk al fresco dining and seating areas through an administrative permitting process; and create high-quality, safe, and active outdoor areas to bolster a vibrant community atmosphere; and

WHEREAS, amendments are also proposed to Section 17.12.070, pertaining to the City’s parking standards, which would establish parking requirements for al fresco dining areas; and

WHEREAS, amendments are further proposed to Sections 17.32.010 and 17.34.020 adding al fresco dining areas and al fresco seating areas as a Use-Specific Regulation in commercial and mixed-use districts, respectively; and

WHEREAS, amendments are proposed to Section 12.04.030, adding reference to the al fresco dining and seating area code section; and

WHEREAS, at a duly noticed public hearing, the Planning Commission considered the comments and concerns of public agencies, property owners, and members of the public who are potentially affected by the approval of the code changes described herein and considered the City’s staff report regarding the project.

NOW, THEREFORE, BE IT RESOLVED BY THE OROVILLE PLANNING COMMISSION AS FOLLOWS:

SECTION 1. The Planning Commission determines:

- A. That the proposed amendments are consistent with the General Plan; and
- B. The proposed amendments are consistent with other applicable provisions of the Municipal Code and compatible with the uses authorized in the applicable zoning districts for which the revisions are proposed.

SECTION 2. The Planning Commission hereby recommends that the City Council approve the Zoning Code Amendment ZC23-02 to the Oroville Municipal Code as set forth in Attachment B, adding Section 17.12.120 establishing regulations for al fresco dining, Attachment C, amending Section 17.12.070 (Parking), Attachment D amending Section 17.32.010 (Allowed Uses in Commercial Districts), Attachment E amending 17.34.020 (Allowed Uses in Mixed-Use Districts), and Attachment F amending Section 12.04.030 (Placing produce, merchandise, etc., on streets and sidewalks).

PASSED AND ADOPTED by the Planning Commission of the City of Oroville at a regular meeting on August 24, 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVE:

Kayla Reaster, Assistant City Clerk

Carl Durling, Chairperson

SECTION 17-12.120**AL FRESCO DINING AND SEATING**

17-12.120 Al Fresco Dining and Seating,

A. Purpose.

The purpose of the regulations and standards in this Section are to allow increased business and pedestrian traffic by providing safe and visually appealing opportunities for Al Fresco Dining and Seating. It shall be unlawful for any person to establish an Al Fresco Dining or Seating Area at any site unless approval had been obtained, as applicable, consistent with this Section.

B. Definitions.

1. Al Fresco Dining: Generally defined as permanent dining areas that are outdoors, either contained fully on private property or on city sidewalks. This dining area shall be a separately identifiable, designated space that is accessory to the operation of a food service establishment.
2. Al Fresco Seating: Generally defined as temporary dining areas located immediately adjacent to or in close proximity to a food service establishment where patrons can sit and consume meals and/or non-alcoholic beverages. An al fresco seating area is characterized by non-permanent improvements where the area can be returned to original unimproved state.
3. Frontage Zone: The section of the sidewalk that functions as an extension of the building, whether through entryways and doors or sidewalk cafes and sandwich boards. The frontage zone consists of both the structure and the facade of the building fronting the street, as well as the space immediately adjacent to the building.
4. Outdoor Dining: See “Al Fresco Dining” definition.
5. Outdoor Seating: See “Al Fresco Seating” definition.
6. Pedestrian Through Zone: The primary, accessible pathway for pedestrians that runs parallel to the street and the al fresco sidewalk dining area. This pathway shall be a minimum of six (6) feet in width.
7. Sidewalk Dining Area: See “Al Fresco Dining” definition.
8. Street Furniture/Curb Zone: The section of the sidewalk between the curb and the through zone in which street furniture and amenities, such as lighting, benches, newspaper kiosks, utility poles, tree pits, and bicycle parking are provided. The street furniture zone may also consist of green infrastructure elements, such as rain gardens or flow-through planters.

C. **Applicability.**

1. Al Fresco Sidewalk Dining shall be allowed only in the area identified as the “Al Fresco Sidewalk Dining Areas.” Generally, the area bounded by High Street, Oliver Street, Arlin Rhine Memorial Drive, and Oak Street, as shown in Figure 17.12.120-1, and the Gateway Site, as shown in Figure 17.12.120-2.

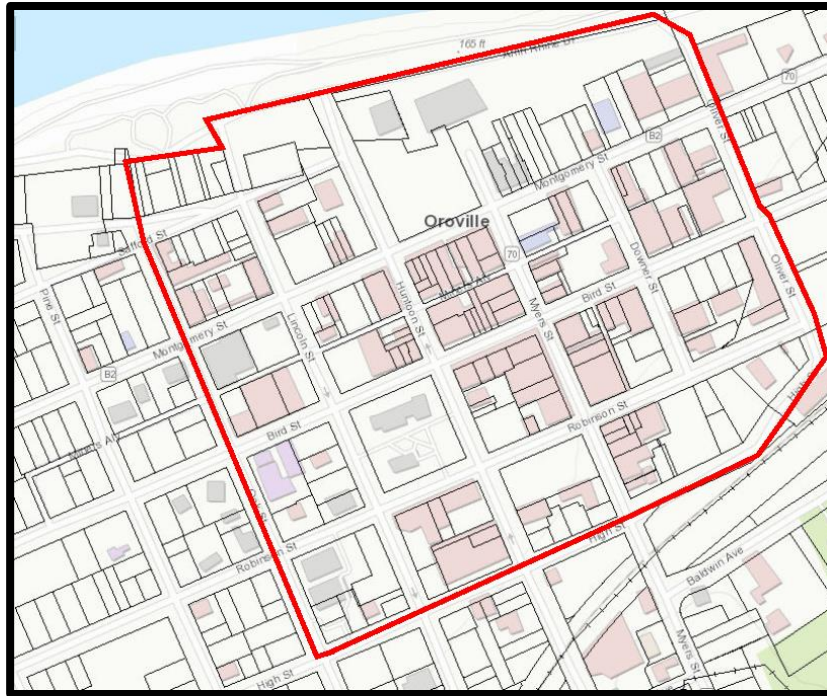


Figure 17.12.120-1



Figure 17.12.120-2

2. Al Fresco Dining Areas outside of the public right-of-way fully contained on private property shall be allowed in areas of the City zoned for commercial and mixed-use districts as specified in Sections 17.32.010 and 17.34.020 of the zoning code.

D. Al Fresco Sidewalk Dining Area.

Al Fresco Sidewalk Dining shall only be allowed within the specific sub areas as identified in subsection (C)(1) (“Applicability”).

1. Conversion of Existing Sidewalk. Sidewalk dining areas that are contained within the existing footprint of the sidewalk without requiring widening to maintain the minimum required pedestrian through zone width.

a. Design Standards

- (1) Shall be directly adjacent to the business proposing to utilize the sidewalk dining area. The al fresco dining area may also utilize the frontage zone of a neighboring business with the written authorization from the adjacent business and building owner(s) where the sidewalk dining area is proposed to extend.
- (2) A continuous barrier separating the dining area from the pedestrian through zone shall be installed a minimum of three (3) feet in height but shall not exceed four (4) feet in height. This barrier shall be constructed of solid material such as metal, stone block, glass, planter boxes, or a combination thereof.

- (3) Awnings, umbrellas, and similar shade covers must allow vertical clearance of a minimum of seven (7) feet above sidewalk level.
- (4) Shall comply with all ADA requirements and the City's adopted Building and Fire Code.
- (5) All signage shall comply with the City's adopted Sign Code.
- (6) Lighting shall be provided that is architecturally compatible with the design of the al fresco dining area and surrounding area.
- (7) The use of compatible awnings, umbrellas, plants, and other human scale elements is encouraged to enhance the pedestrian experience.

b. Operational Requirements

- (1) The dining area shall be kept clear of trash, litter, and debris.
- (2) Furnishings must be maintained and cleaned regularly with no ripped, faded, or otherwise damaged materials. Any unmaintained furnishing shall be repaired or replaced immediately. The restaurant manager or business owner is responsible for maintaining the al fresco dining area free of trash, litter, and food debris.
- ~~(3) Waste receptacles shall be provided for patrons in the dining area.~~
- (4) Operation of an al fresco dining area shall be permitted only during such times as the hours of operation of the associated food service establishment.
- (5) An al fresco dining operation proposing to serve alcoholic beverages must be duly licensed by the state Department of Alcoholic Beverage Control and obtain a conditional use permit pursuant to Section 17.16.160, as may be required by the subject property's zoning designation, prior to the service of alcoholic beverages.
- (6) As applicable, the applicant shall post signage that the drinking or carrying of an open container of alcohol is prohibited outside the al fresco dining area.
- (7) The al fresco dining area shall comply with the City's Noise Ordinance.
- (8) Unobstructed access to fire exits, fire lanes, fire hydrants, fire hose connections, and entrances and exits of all buildings shall be maintained.
- ~~(9) No heating, cooking or open flames are permitted in the sidewalk dining area. Space heaters are permitted provided that they are an outdoor approved type, are located in accordance with the manufacturer's recommendations, and are located at least two (2) feet from the edge of any umbrella canvas, any foliage, or any other flammable object or material.~~

c. Application Review Procedure and Submittal Requirements

- (1) Subject to an administrative permit approved by the Development Review Committee.

- (2) An application for an al fresco dining area shall include a detailed site plan, drawn to scale, noting dimensions of the area proposed for the outdoor café; the proposed number and location of tables, chairs and other furnishings to be included in the al fresco dining area; the composition, design, and location of all physical barriers; the location and nature of any proposed landscaping; the relationship of the al fresco dining area to the indoor dining area; and all sidewalk obstructions in the vicinity of the proposed al fresco dining area.
 - (3) A detailed description of the type, color, and material of all proposed outdoor furniture, such as tables, chairs, barriers, planters, umbrellas, signs, and lighting shall be included with an application for an al fresco dining area.
2. Widening of Sidewalk. Sidewalk dining areas that require widening of the sidewalk to accommodate both the new dining area and the minimum required pedestrian through zone width.

a. Design Standards

- (1) Shall be directly adjacent to the business proposing to utilize the sidewalk dining area. The al fresco dining area may also utilize the frontage zone of a neighboring business with the written authorization from the adjacent business and building owner(s) where the sidewalk dining area is proposed to extend.
- (2) No more than two (2) parking spaces may be converted to widened sidewalk to facilitate any one al fresco dining area. The two (2) parking spaces that may be converted to widened sidewalk may either be: two (2) parking spaces on one (1) block, or one (1) space on each side of and directly adjacent to the corner of a block where two (2) public streets intersect.
- (3) Existing street trees shall be preserved and incorporated into the design of the dining area where possible.
- (4) Awnings, umbrellas, and similar shade covers must allow vertical clearance of a minimum of seven (7) feet above sidewalk level.
- (5) A continuous barrier separating the dining area from the pedestrian through zone shall be installed a minimum of three (3) feet in height but shall not exceed four (4) feet in height. This barrier shall be constructed of solid material such as metal, stone block, glass, planter boxes, or a combination thereof.
- (6) Shall comply with all ADA requirements and the City's adopted Building and Fire Code.
- (7) All signage shall comply with the City's adopted Sign Code.
- (8) Lighting shall be provided that is architecturally compatible with the design of the al fresco dining area and surrounding area.
- (9) The use of compatible awnings, umbrellas, plants, and other human scale elements is encouraged to enhance the pedestrian experience.

b. Operational Requirements

- (1) The dining area shall be kept clear of trash, litter, and debris.
- (2) Furnishings must be maintained and cleaned regularly with no ripped, faded, or otherwise damaged materials. Any unmaintained furnishing shall be repaired or replaced immediately. The restaurant manager or business owner is responsible for maintaining the al fresco dining area free of trash, litter, and food debris.
- ~~(3) Waste receptacles shall be provided for patrons of the dining area.~~
- (4) Operation of an al fresco dining area shall be permitted only during such times as the hours of operation of the associated food service establishment.
- (5) An al fresco dining operation proposing to serve alcoholic beverages must be duly licensed by the state Department of Alcoholic Beverage Control and obtain a conditional use permit pursuant to Section 17.16.160, as may be required by the subject property's zoning designation, prior to the service of alcoholic beverages.
- (6) As applicable, the applicant shall post signage that the drinking or carrying of an open container of alcohol is prohibited outside the al fresco dining area.
- (7) The al fresco dining area shall comply with the City's Noise Ordinance.
- (8) Unobstructed access to fire exits, fire lanes, fire hydrants, fire hose connections, and entrances and exits of all buildings shall be maintained.
- ~~(9) No heating, cooking or open flames are permitted in the sidewalk dining area. Space heaters are permitted provided that they are an outdoor approved type, are located in accordance with the manufacturer's recommendations, and are located at least two (2) feet from the edge of any umbrella canvas, any foliage, or any other flammable object or material.~~

c. Application Review Procedure and Submittal Requirements

- (1) Subject to an administrative permit approved by the Development Review Committee.
- (2) An encroachment permit shall be obtained prior to any work commencing within the public right-of-way.
- (3) Prior to approving a permit authorizing the widening of a sidewalk that results in the loss of on-street parking, findings shall be made that the loss of on-street parking will not result in an inadequate supply of parking within the downtown area.
- (4) All costs associated to the widening of sidewalk for the operation of an al fresco sidewalk dining area shall be at applicant's sole cost and expense.

- (5) An application for an al fresco dining area shall include a detailed site plan, drawn to scale, noting dimensions of the area proposed for the outdoor café; the proposed number and location of tables, chairs and other furnishings to be included in the al fresco dining area; the composition, design, and location of all physical barriers; the location and nature of any proposed landscaping; the relationship of the al fresco dining area to the indoor dining area; and all sidewalk obstructions in the vicinity of the proposed al fresco dining area.
 - (6) A detailed description of the type, color, and material of all proposed outdoor furniture, such as tables, chairs, barriers, planters, umbrellas, signs, and lighting shall be included with an application for an al fresco dining area.
3. **General Liability Insurance**
- a. The applicant shall provide to the City an agreement to indemnify, defend, and hold harmless the City of Oroville, as applicable, for any and all claims for liability or damages arising from the operation of the al fresco dining area.
 - b. The restaurant operator or property owner shall provide to the City of Oroville insurance certificates and endorsements evidencing general liability insurance, workers compensation insurance, and such other insurance, in such amounts and forms as may be required by the City of Oroville Risk Manager.
4. A permit to operate an Al Fresco Sidewalk Dining Area shall be subject to termination by the City at any time upon giving written notice to the applicant and/or operator at least ten (10) days prior to the hearing upon determination of the Community Development Director that one (1) or more of the conditions or provisions of this Section have been violated, or that one (1) or more factors listed in this Section have changed, or the permitted use is no longer compatible with the intended use of the City property, public sidewalk or other public right-of-way. No prior written notice shall be required to terminate the permit where the Community Development Director in their discretion, that the continued use of the City property, public sidewalk or other public right-of-way for the Al Fresco Dining Area poses an imminent threat to health or safety.

E. **Al Fresco Dining Areas Outside of the Public Right-of-Way.**

Shall apply city-wide in Commercial and Mixed-Use Districts as specified in Sections 17.32.010 and 17.34.020, including the specific sub areas as identified in subsection (C)(1) (“Applicability”).

1. **Design Standards**
- a. Shall not encroach or be constructed within the public right-of-way.
 - b. Parking shall be provided in accordance with Section 17.12.070.
 - c. A continuous barrier separating the dining area from drive aisles, parking and, pedestrian facilities shall be installed a minimum of three (3) feet in height. This barrier shall be constructed of solid material such as metal, stone block, glass, or a combination thereof. Any barrier over three (3) feet in height shall be

architecturally compatible with the adjacent building and surrounded by a landscaped buffer of no less than 5 feet in width.

- d. Awnings, umbrellas, and similar shade covers must allow vertical clearance of a minimum of seven (7) feet.
- e. Shall comply with all ADA requirements and the City's adopted Building and Fire Code.
- f. All signage shall comply with the City's adopted Sign Code.
- g. Lighting shall be provided that is architecturally compatible with the design of the al fresco dining area and surrounding area.
- h. The use of compatible awnings, umbrellas, plants, and other human scale elements is encouraged to enhance the pedestrian experience.

2. Operational Requirements

- a. The dining area shall be kept clear of trash, litter, and debris.
- b. Furnishings must be maintained and cleaned regularly with no ripped, faded, or otherwise damaged materials. Any unmaintained furnishing shall be repaired or replaced immediately. The restaurant manager or business owner is responsible for maintaining the al fresco dining area free of trash, litter, and food debris.
- ~~e. Waste receptacles shall be provided for patrons in the dining area.~~
- d. Operation of an al fresco dining area shall be permitted only during such times as the hours of operation of the associated food service establishment.
- e. An al fresco dining operation proposing to serve alcoholic beverages must be duly licensed by the state Department of Alcoholic Beverage Control and obtain a conditional use permit pursuant to Section 17.16.160, as may be required by the subject property's zoning designation, prior to the service of alcoholic beverages.
- f. As applicable, the applicant shall post signage that the drinking or carrying of an open container of alcohol is prohibited outside the al fresco dining area.
- g. The al fresco dining area shall comply with the City's Noise Ordinance.
- h. Unobstructed access to fire exits, fire lanes, fire hydrants, fire hose connections, and entrances and exits of all buildings shall be maintained.
- ~~i. No heating, cooking or open flames are permitted in the al fresco dining area. Space heaters are permitted provided that they are an outdoor approved type, are located in accordance with the manufacturer's recommendations, and are located at least two (2) feet from the edge of any umbrella canvas, any foliage, or any other flammable object or material.~~

3. Application Review Procedure and Submittal Requirements

- a. New al fresco dining areas proposed to be added to an already developed site containing a food service establishment shall be subject to an administrative permit approved by the Development Review Committee.

(1) Al fresco dining areas proposed as part of a larger project shall be reviewed and approved by the approval body for the project.

- b. An application for an al fresco dining area shall include a detailed site plan, drawn to scale, noting dimensions of the area proposed for the al fresco dining area; the proposed number and location of tables, chairs and other furnishings to be included in the al fresco dining area; the composition, design, and location of all physical barriers; the location and nature of any proposed landscaping; the relationship of the al fresco dining area to the indoor dining area; and all sidewalk obstructions in the vicinity of the proposed al fresco dining area.
- c. A detailed description of the type, color, and material of all proposed outdoor furniture, such as tables, chairs, barriers, planters, umbrellas, signs, and lighting shall be included with an application for an al fresco dining area.

F. **Al Fresco Seating Areas.**

Shall apply city-wide in Commercial and Mixed-Use Districts as specified in Sections 17.32.010 and 17.34.020, including the specific sub areas as identified in subsection (C)(1) (“Applicability”).

1. **Operational Standards**

- a. Alcoholic beverages shall not be served or consumed in al fresco seating areas.
- b. The furnishings shall be directly adjacent to or in close proximity of the food service establishment and shall be non-permanent in nature.
- c. The outdoor seating area shall be no larger than 25% of the floor area of the associated food service establishment, or 16 seats, whichever is greater.
- d. Furnishings may be set out as early as thirty (30) minutes prior to opening and must be removed no later than thirty (30) minutes after closing of the business.
- e. Awnings, umbrellas, and similar shade covers must allow vertical clearance of a minimum of seven (7) feet.
- f. All al fresco seating areas shall comply with the City’s Noise Ordinance.
- g. The required pedestrian through zone, emergency access/exits, and fire lanes must be maintained.
- h. Furnishings must be maintained and cleaned regularly with no ripped, faded, or otherwise damaged materials. Any unmaintained furnishing shall be repaired or replaced immediately. The restaurant manager or business owner is responsible for maintaining the al fresco dining area free of trash, litter, and food debris.
- i. No furnishings shall be placed within any required parking or landscape area.
- j. No furnishings may be placed or encroach within the public right-of-way without first obtaining appropriate approvals as specified in subsection (F)(2)(b) (“Application Review Procedure and Submittal Requirements”).

2. **Application Review Procedure and Submittal Requirements**

- a. If a proposed al fresco seating area consists only of the temporary placement of tables and chairs contained wholly on private property during the food service establishment's hours of operation and complies with the operational standards as detailed above in subsection (F)(1), a permit shall not be required.
 - b. If a proposed al fresco seating area consists only of the temporary placement of tables and chairs in the public right-of-way during the food service establishment's hours of operation and complies with the operational standards as detailed above in subsection (F)(1), an administrative al fresco seating area permit shall be required, subject to approval by the Director of Community Development, or designee. An application for an al fresco seating area permit shall contain the following:
 - (1) A site plan depicting the area within the public right-of-way proposed to be used for the al fresco seating area.
 - (2) If the proposed al fresco seating area includes the placement of furnishings in front of a business immediately adjacent to the associated food service establishment, the applicant shall submit written authorization from the adjacent business and building owner(s) to utilize the businesses frontage zone.
 - (3) Insurance certificates and endorsements evidencing general liability insurance, workers compensation insurance, and such other insurance, in such amounts and forms as may be required by the City of Oroville Risk Manager.
 - (4) An agreement to indemnify, defend, and hold harmless the City of Oroville, as applicable, for any and all claims for liability or damages arising from the operation of the al fresco seating area.
- G. **Exemptions.** Al fresco dining and seating areas that deviate from the standards set forth in this Section are subject to a Conditional Use Permit, processed in accordance with Section 17.48.010.

Table 17.12.070-1

Minimum Vehicular Parking Requirements

Land Use	Vehicular Parking Requirements
Public Assembly	
Commercial recreational facility—indoor Arcade or amusement center Bowling alley Skating rink Theater	1 space for each 300 square feet of gross floor area 2 spaces for each lane 1 space for each 300 square feet of rink area, plus 1 space for each 10 fixed seats 1 space for each 5 fixed seats, or 1 space for each 100 square feet of gross floor area if no fixed seats; exceptions may be provided for theaters with more than 500 seats, subject to a use permit
Commercial recreational facility—outdoor	Determined by use permit
Gym	1 space for each 300 square feet of gross floor area
Instructional studio	1 space for each 300 square feet of gross floor area
Library or museum	1 space for each 300 square feet of gross floor area
Meeting facility	1 space for each 5 fixed seats, or 1 space for each 100 square feet of gross floor area if no fixed seats; plus additional spaces as required by this section for accessory uses, such as offices
Restaurant or café	1 space for each 100 square feet of gross floor area
School—elementary or middle school	3 spaces for each classroom
School—high school	7 spaces for each classroom
Land Use	
Vehicular Parking Requirements	
Residential	
Boardinghouse	1 space for each bedroom
Caretaker dwelling unit	1 space for each dwelling unit
Duplex	2 spaces for each dwelling unit
Emergency shelter	1 space per 10 adult beds
Family day care, large	2 spaces, in addition to those required for the dwelling unit
Family day care, small	None beyond requirement for dwelling unit
Home occupation	None beyond requirement for dwelling unit
Mobile home park	1 space for each dwelling unit, plus 1 guest parking space for each 4 dwelling units
Studio or 1 bedroom	1 space for each dwelling unit
2 or more bedrooms—projects with fewer than 14 dwelling units per acre	2 spaces for each dwelling unit
2 or more bedrooms—projects with 14 or more dwelling units per acre	1.5 spaces for each dwelling unit
Guest parking for multiple-family dwellings	1 space for each 4 dwelling units
Residential care facility—6 units or fewer	Same as requirements for applicable type of dwelling unit
Residential care facility—7 units or more	1 space for each 3 beds
Second dwelling unit	1 space for each dwelling unit
Single-family dwelling	2 spaces for each dwelling unit
Retail	
All “retail” uses listed in Ch. 17.28, except the following: Alcoholic beverage sales—on-premises consumption Automobile sales Gas station Restaurant or café	1 space for each 300 square feet of gross floor area 1 space for each 100 square feet of gross floor area 1 space for each 2,000 square feet of site area As required for individual accessory uses; minimum of 2 spaces 1 space for each 4 seats, including outdoor seating
Al fresco dining	1 space for each 4 seats
Mobile home, boat or recreational vehicle sales	1 space for each 1,000 square feet of site area
Services	
All “services” uses listed in Ch. 17.28, except the following:	1 space for each 300 square feet of gross floor area

Land Use	Vehicular Parking Requirements
Bed and breakfast	1 space for each guest room, plus 1 space for any resident manager
Car wash	2 spaces for each wash bay
Hospital	1.1 spaces for each bed
Hotel or motel	1 space for each guest room, plus additional spaces as required by this section for accessory uses
Mortuary	1 space for each 6 fixed seats, or 1 space for each 100 square feet of gross floor area if no fixed seats
Personal services	1 space for each 200 square feet of gross floor area
<i>Manufacturing, Wholesale, Repair and Storage</i>	
All “manufacturing, wholesale, repair and storage” uses listed in Ch. 17.28, except the following:	1 space for each 1,000 square feet of gross floor area; minimum of 2 spaces
Mini-storage facility	1 space for each 3,000 square feet of gross floor area; minimum of 4 spaces
Research laboratories	1 space for each 300 square feet of gross floor area
Warehousing	1 space for each 2,000 square feet of gross floor area used for storage, plus 1 space for each 300 square feet of other gross floor area
<i>Transportation and Infrastructure</i>	
All “transportation and infrastructure” uses listed in Ch. 17.28	1 space for each 1,000 square feet of gross floor area; minimum of 4 spaces

J. Parking Requirements in DH-O Districts. Notwithstanding any other provision of this section, in downtown historic overlay (DH-O) districts, the following minimum parking requirements shall apply:

1. For single-family residential uses in a DH-O district, no parking spaces shall be required, provided that all of the following circumstances exist:
 - a. No off-street parking spaces have already been constructed on the property.
 - b. The property qualifies as a landmark, as provided in Section [17.48.040](#).
2. Residential uses in a DH-O district shall be eligible for the on-street parking credit described in this section.
3. In any RP/DH-O district, all required parking spaces shall be located within the building’s rear setback.
4. Seating in an al fresco dining area of a restaurant or café use within the “Al Fresco Sidewalk Dining Area” of the DH-O, as defined in Section 17.12.120(C)(1), shall not count towards the minimum vehicular parking requirements for the use.

17.32.010 Allowed uses in commercial districts.

The uses allowed in commercial districts shall be as shown in Table 17.32.010-1. These uses include:

- A. **Permitted Use (P).** Uses that are shown with a “P” shall be permitted, subject to obtaining a zoning clearance, as provided in Section 17.48.030 (Zoning clearances) of this title, as well as any building permits or other permits required by this Code.
- B. **Administrative Permit Required (AP).** Uses that are shown with an “AP” shall be subject to obtaining an administrative permit, as provided in Section 17.48.020 (Administrative permits) of this title.
- C. **Use Permit Required (UP).** Uses that are shown with a “UP” shall be subject to obtaining a use permit, as provided in Section 17.48.010 (Use permits) of this title.
- D. **Use-Specific Regulations (S).** Uses that are shown with an “S” shall be subject to permit requirements as provided in the specific regulations for that use. The table indicates where the use-specific regulations are located in this Code.
- E. **Use Not Allowed (-).** Uses that are shown with a “-”, or that are not listed, shall not be allowed, except as provided in Sections 17.08.090 (Interpretation regarding allowable uses of land) and 17.48.090 (Nonconforming uses and structures) of this title.

Table 17.32.010-1

Allowed Uses in Commercial Districts

Key	
P	Permitted use, subject to zoning clearance
AP	Administrative permit required
UP	Use permit required
S	See use-specific regulations for permit requirement
-	Use not allowed

Land Use	Zoning Districts						Use-Specific Regulations
	CN	C-1	C-2	CH	CLM	OF	
Local Food Uses							
Neighborhood food and beverage sales	AP	AP	AP	AP	AP	AP	17.16.220 (Neighborhood food and beverage sales)
Urban agriculture	S	S	S	S	S	S	17.16.230 (Urban agriculture)
Public Assembly							
Carnival, circus or fair	AP	AP	AP	AP	AP	UP	17.16.060 (Temporary uses and buildings)
Commercial recreational facility-indoor, 10,000 square feet or less of gross floor area	UP	P	P	P	UP	-	-
Commercial recreational facility-indoor, more than 10,000 square feet of gross floor area	-	UP	P	UP	UP	-	-
Commercial recreational facility-outdoor	-	UP	P	-	UP	-	-
Concert or performance	AP	AP	AP	AP	AP	-	17.16.060 (Temporary uses and buildings)
Library or museum	-	UP	UP	UP	UP	UP	-
Meeting facility—10,000 square feet or less of gross floor area	P	P	P	UP	UP	P	-
Meeting facility-more than 10,000 square feet of gross floor area	-	UP	P	-	UP	UP	-
Park or playground	UP	UP	UP	UP	UP	UP	-
School, public	-	P	P	UP	UP	UP	-
School, private	-	P	P	-	-	UP	-
Training facility	-	UP	UP	-	-	UP	-
Residential							
Caretaker residence	UP	UP	UP	UP	UP	-	-
Family day care, large	S	S	S	S	S	-	17.16.050 (Family day care homes)
Family day care, small	P	P	P	P	P	-	17.16.050 (Family day care homes)
Home occupation, low-impact	P	P	P	-	-	-	17.16.040 (Home occupations)
Home occupation, moderate-impact	AP	AP	AP	-	-	-	17.16.040 (Home occupations)

Land Use	Zoning Districts						Use-Specific Regulations
	CN	C-1	C-2	CH	CLM	OF	
Residential care facility—6 units or fewer	P	P	P	P	P	-	-
Residential care facility—7 units or more	-	-	-	-	-	-	-
Retail							
Alcoholic beverage sales	UP	UP	UP	-	-	-	-
Al fresco dining areas	S	S	S	S	S	-	17.12.120 (Al Fresco Dining and Seating)
Al fresco seating areas	S	S	S	S	S	-	17.12.120 (Al Fresco Dining and Seating)
Building supply	-	-	P	-	P	-	-
Cannabis retail	-	-	-	-	-	-	-
Equipment and machinery sales or rental	-	-	P	-	P	-	-
Drive-through establishment—pharmacy	P	P	P	P	P	-	17.16.080 (Drive-through establishments)
Drive-through establishment—all other uses	UP	UP	UP	UP	UP	-	17.16.080 (Drive-through establishments)
Farmers' market	AP	AP	AP	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Food and beverage sales—10,000 square feet or less of gross floor area	P	P	P	P	P	-	-
Food and beverage sales—10,001 to 40,000 feet of gross floor area	UP	P	P	UP	-	-	-
Food and beverage sales—more than 40,000 square feet of gross floor area	-	P	P	UP	-	-	-
Funeral merchandise sales	-	UP	UP	-	-	UP	-
Gas station	-	UP	P	P	P	-	17.16.070 (Gas stations)
General retail—10,000 square feet or less of gross floor area	P	P	P	P	P	-	-
General retail—10,001 to 40,000 feet of gross floor area	UP	P	P	UP	P	-	-
General retail—more than 40,000 square feet of gross floor area	-	UP	P	UP	UP	-	-
Mobile food vendor	AP	AP	AP	AP	AP	AP	17.16.150 (Mobile food vending)

Land Use	Zoning Districts						Use-Specific Regulations
	CN	C-1	C-2	CH	CLM	OF	
Pet store	UP	UP	UP	-	-	-	17.16.120 (Animal keeping)
Plant nursery or garden supply store	UP	P	P	P	-	-	-
Restaurant or café	P	P	P	P	P	-	-
Seasonal holiday agricultural sales	AP	AP	AP	AP	AP	-	17.16.060 (Temporary uses and buildings)
Shopping center	UP	UP	P	UP	UP	-	-
Smoke shop	UP	UP	UP	UP	UP	UP	17.16.190 (Smoke shops)
Vehicle sales—automobile, new	-	UP	P	UP	P	-	-
Vehicle sales—all other	-	-	UP	UP	UP	-	-
Services							
Animal grooming	UP	UP	UP	-	-	-	17.16.120 (Animal keeping)
Animal keeping, noncommercial	P	P	P	P	P	-	17.16.120 (Animal keeping)
Bank or financial service	P	P	P	-	P	P	-
Bed and breakfast	UP	P	P	P	-	-	-
Business support service	P	P	P	P	P	P	-
Cannabis testing	-	-	-	-	-	-	-
Car wash	-	UP	P	P	P	-	17.16.090 (Car and vehicle washes)
Catering service	-	P	P	-	P	-	-
Child day care center	P	P	P	UP	UP	-	-
Gym	P	P	P	-	P	-	-
Hospital	-	UP	UP	-	-	-	-
Hotel or motel	-	UP	P	UP	UP	-	-
Instructional or production studio	P	P	P	-	P	P	-
Kennel	-	-	UP	-	UP	-	17.16.120 (Animal keeping)
Mortuary	-	UP	UP	UP	P	UP	-
Office—professional	P	P	P	-	P	P	-
Office—all other	P	P	P	-	P	P	-
Outpatient services	UP	P	P	-	-	-	-
Personal services—low-impact	P	P	P	P	P	-	-
Personal services—moderate-impact	UP	UP	UP	UP	UP	-	-
Recreational vehicle (RV) park	-	-	UP	P	UP	-	-

Land Use	Zoning Districts						Use-Specific Regulations
	CN	C-1	C-2	CH	CLM	OF	
Substance abuse counseling	-	-	P	-	P	-	-
Temporary real estate office	AP	AP	AP	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Temporary uses not listed here	S	S	S	S	S	S	17.16.060 (Temporary uses and buildings)
Veterinarian	UP	UP	P	-	P	-	17.16.120 (Animal keeping)
Manufacturing, Wholesale, Repair and Storage							
Food or beverage production	-	UP	UP	-	UP	-	-
Landscape material sales	-	UP	UP	-	P	-	-
Manufacturing—20,000 square feet or less of gross floor area	-	UP	P	-	P	P	-
Manufacturing—more than 20,000 square feet of gross floor area	-	-	UP	-	UP	UP	-
Metalwork—20,000 square feet or less of gross floor area	-	UP	UP	P	P	UP	-
Metalwork—more than 20,000 square feet of gross floor area	-	-	UP	UP	UP	UP	-
Mini-storage facility	S	S	S	-	S	-	17.16.060 17.44.060 (MS-O-Mini-storage overlay)
Outdoor storage—250 square feet or less	P	P	P	P	P	P	17.16.140 (Outdoor storage)
Outdoor storage—more than 250 square feet	UP	UP	P	UP	P	UP	17.16.140 (Outdoor storage)
Recycling facility or center	-	UP	P	-	P	-	-
Repair service, large equipment—20,000 square feet or less of gross floor area	UP	UP	P	P	P	-	-
Repair service, large equipment—more than 20,000 square feet of gross floor area	-	-	UP	UP	UP	-	-
Repair service, small appliances	P	P	P	-	P	-	-
Research laboratories	-	-	UP	-	UP	UP	-
Scrap or dismantling yard	-	-	-	-	UP	-	-
Vehicle service or repair	-	UP	P	P	P	-	-
Warehousing	-	-	-	-	P	-	-
Transportation and Infrastructure							

Land Use	Zoning Districts						Use-Specific Regulations
	CN	C-1	C-2	CH	CLM	OF	
Parking garage or lot as primary use	UP	UP	P	-	UP	UP	-
Public safety facility	UP	UP	UP	UP	UP	UP	-
Solar energy system, Tier 1	P	P	P	P	P	P	17.16.180 (Solar energy systems)
Solar energy system, Tier 2	AP	AP	AP	AP	AP	AP	17.16.180 (Solar energy systems)
Solar energy system, Tier 3	UP	UP	UP	UP	UP	UP	17.16.180 (Solar energy systems)
Utility building or substation	P	P	P	P	P	P	-
Vehicle depot	-						

(Ord. 1749 § 4; Ord. 1763 §§ 18, 23, 24, 26; Ord. 1769 § 9; Ord. 1775 § 7; Ord. 1778 § 4; Ord. 1784 § 7; Ord. 1794 § 2; Ord. 1819 § 7, 2017; Ord. 1830 § 6, 2018; Ord. 1834 § 4, 2019; Ord. 1850 § 3, 2021)

17.34.020 Allowed uses in mixed-use districts.

Table 17.34.020-1 shows the uses allowed in the mixed-use districts. These uses include:

- A. **Permitted Use (P).** Uses shown with a “P” are permitted by-right with zoning clearance approval. See Section [17.48.030](#) (Zoning clearances).
- B. **Administrative Permit Required (AP).** Uses shown with an “AP” require an administrative permit. See Section [17.48.020](#) (Administrative permits).
- C. **Use Permit Required (UP).** Uses shown with a “UP” require a use permit. See Section [17.48.010](#) (Use permits).
- D. **Use-Specific Regulations (S).** Uses shown with an “S” must comply with specific regulations for that use. The table identifies the section number for the use-specific regulations.
- E. **Use Not Allowed (-).** Uses shown with a “-” or that are not listed, are not allowed.

Table 17.34.020-1:

Allowed Uses in Mixed-Use Districts

Key	
P	Permitted use, subject to zoning clearance
AP	Administrative permit required
UP	Use permit required
S	See use-specific regulations for permit requirement
-	Use not allowed

Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
Local Food Uses				
Neighborhood food and beverage sales	AP	AP	AP	17.16.220 (Neighborhood food and beverage sales)

Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
Urban agriculture	S	S	S	17.16.230 (Urban agriculture)
Public Assembly				
Carnival, circus or fair	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Commercial recreational facility—indoor, 10,000 square feet or less of gross floor area	UP	UP	P	
Commercial recreational facility—indoor, more than 10,000 square feet of gross floor area	UP	UP	UP	
Commercial recreational facility—outdoor	-	-	UP	
Concert or performance	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Library or museum	UP	UP	UP	
Meeting facility—10,000 square feet or less of gross floor area	P	P	P	
Meeting facility—more than 10,000 square feet of gross floor area	UP	UP	P	
Park or playground	UP	UP	UP	
School, public	UP	UP	UP	
School, private	UP	UP	UP	
Training facility	UP	UP	UP	
Residential [1]				
Caretaker residence	UP	UP	-	
Family day care, large	S	S	S	17.16.050 (Family day care homes)
Family day care, small	P	P	P	17.16.050 (Family day care homes)
Home occupation, low-impact	S	S	S	17.16.040 (Home occupation)
Home occupation, moderate-impact	S	S	S	17.16.040 (Home occupation)
Mixed-use development	P	P	P	17.16.030 (Mixed-use development)
Multiple-family dwellings [1]	-	P	P	
Residential care facility—6 units or fewer	P	P	P	
Residential care facility—7 units or more	UP	UP	-	

Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
Retail				
Alcoholic beverage sales	UP	UP	UP	
Al fresco dining areas	S	S	S	17.12.120 (Al Fresco Dining and Seating)
Al fresco seating areas	S	S	S	17.12.120 (Al Fresco Dining and Seating)
Building supply	-	-	-	
Equipment and machinery sales or rental	-	-	-	
Drive-through establishment—pharmacy	-	-	UP	17.16.080 (Drive-through establishments)
Drive-through establishment all other uses	-	-	UP	17.16.080 (Drive-through establishments)
Farmers market	AP	AP	AP	
Food and beverage sales—10,000 square feet or less of gross floor area	P	P	P	
Food and beverage sales—10,001 to 40,000 square feet of gross floor area	UP	P	P	
Food and beverage sales—more than 40,000 square feet of gross floor area	UP	UP	P	
Funeral merchandise sales	UP	UP	UP	
Gas station	-	-	UP	17.16.070 (Gas stations)
General retail—10,000 square feet or less of gross floor area	P	P	P	
General retail—10,001 to 40,000 feet of gross floor area	UP	P	P	
General retail—more than 40,000 square feet of gross floor area	-	UP	UP	
Mobile food vendor	AP	AP	AP	17.16.150 (Mobile food vending)
Pet store	UP	UP	UP	17.16.120 (Animal keeping)
Plant nursery or garden supply store	UP	UP	P	
Restaurant or café	P	P	P	
Seasonal holiday agricultural sales	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Shopping center, 1,000 square feet or less of gross floor area	P	P	P	
Shopping center, 1,000 square feet or greater of gross floor area	P	UP	P	

Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
Smoke shop	UP	UP	UP	17.36.010 (Allowed uses in industrial districts)
Vehicle sales—automobile, new	-	-	P	
Vehicle sales—all other	-	-	UP	
Services				
Animal grooming	UP	UP	UP	17.16.120 (Animal keeping)
Animal keeping, noncommercial	P	P	P	17.16.120 (Animal keeping)
Bank or financial service	P	P	P	
Bed and breakfast	P	P	P	
Business support service	P	P	P	
Car wash	-	UP	UP	17.16.090 (Car and vehicle washes)
Catering service	P	P	P	
Child day care center	P	P	P	
Gym	P	P	P	
Hospital	-	-	-	
Hotel or motel	UP	-	UP	
Instructional or production studio	P	-	P	
Kennel	-	-	UP	17.16.120 (Animal keeping)
Mortuary	UP	-	UP	
Office—professional	P	P	P	
Office—all other	P	P	P	
Outpatient Services	UP	UP	UP	
Personal services—low-impact	P	P	P	
Personal services—moderate-impact	UP	UP	UP	
Temporary real estate office	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Temporary uses not listed here	S	S	S	17.16.060 (Temporary uses and buildings)
Veterinarian	UP	UP	P	17.16.120 (Animal keeping)
Manufacturing, Wholesale, Repair, and Storage				
Food or beverage production	UP	-	UP	
Landscape material sales	-	-	UP	
Manufacturing—20,000 square feet or less of gross floor area	UP	-	UP	

Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
Metalwork—10,000 square feet or less of gross floor area	UP	-	UP	
Mini-storage facility	-	-	-	17.44.060 (MS-O: mini-storage overlay)
Outdoor storage—250 square feet or less	-	-	P	17.16.140 (Outdoor storage)
Outdoor storage—more than 250 square feet	UP	UP	UP	17.16.140 (Outdoor storage)
Repair service, large equipment—20,000 square feet or less of gross floor area	-	-	UP	
Repair service, small appliances	P	P	P	
<i>Transportation and Infrastructure</i>				
Parking garage or lot as primary use	UP	UP	UP	
Public safety facility	UP	UP	UP	
Solar energy system, Tier 1	P	P	P	17.16.180 (Solar energy systems)
Solar energy system, Tier 2	AP	AP	AP	17.16.180 (Solar energy systems)
Solar energy system, Tier 3	UP	UP	UP	17.16.180 (Solar energy systems)
Utility building or substation	P	P	P	

[1] Residential uses in the downtown mixed-use district are permitted only on upper stories above ground floor commercial uses.

(Ord. 1819 § 8, 2017; Ord. 1830 § 7, 2018)

12.04.030 Placing produce, merchandise, etc., on streets and sidewalks.

Except as provided in this chapter, [Section 17.12.120](#), and Section 17.16.130, it is unlawful for any person to leave or cause to be left, place or cause to be placed, on any sidewalk, alley, gutter or street within the city, any produce, wares, merchandise, store boxes, other substances or material, objects or implements whatsoever of any class, kind or character, except for short periods during the loading or discarding of such articles; provided, however, that bicycles may be placed in the gutter or street. (Code 1954 § 19.6; Ord. 1533 § 1; Ord. 1750 § 10)

Attachment 4

SECTION 17-12.120**AL FRESCO DINING AND SEATING**

17-12.120 Al Fresco Dining and Seating,

A. Purpose.

The purpose of the regulations and standards in this Section are to allow increased business and pedestrian traffic by providing safe and visually appealing opportunities for Al Fresco Dining and Seating. It shall be unlawful for any person to establish an Al Fresco Dining or Seating Area at any site unless approval had been obtained, as applicable, consistent with this Section.

B. Definitions.

1. Al Fresco Dining: Generally defined as permanent dining areas that are outdoors, either contained fully on private property or on city sidewalks. This dining area shall be a separately identifiable, designated space that is accessory to the operation of a food service establishment.
2. Al Fresco Seating: Generally defined as temporary dining areas located immediately adjacent to or in close proximity to a food service establishment where patrons can sit and consume meals and/or non-alcoholic beverages. An al fresco seating area is characterized by non-permanent improvements where the area can be returned to its original unimproved state.
3. Frontage Zone: The section of the sidewalk that functions as an extension of the building, whether through entryways and doors or sidewalk cafes and sandwich boards. The frontage zone consists of both the structure and the facade of the building fronting the street, as well as the space immediately adjacent to the building.
4. Outdoor Dining: See “Al Fresco Dining” definition.
5. Outdoor Seating: See “Al Fresco Seating” definition.
6. Pedestrian Through Zone: The primary, accessible pathway for pedestrians that runs parallel to the street and the al fresco sidewalk dining area. This pathway shall be a minimum of six (6) feet in width.
7. Sidewalk Dining Area: See “Al Fresco Dining” definition.
8. Street Furniture/Curb Zone: The section of the sidewalk between the curb and the through zone in which street furniture and amenities, such as lighting, benches, newspaper kiosks, utility poles, tree pits, and bicycle parking are provided. The street furniture zone may also consist of green infrastructure elements, such as rain gardens or flow-through planters.

C. **Applicability.**

1. Al Fresco Sidewalk Dining shall be allowed only in the area identified as the “Al Fresco Sidewalk Dining Areas.” Generally, the area bounded by High Street, Oliver Street, Arlin Rhine Memorial Drive, and Oak Street, as shown in Figure 17.12.120-1, and the Gateway Site, as shown in Figure 17.12.120-2.



Figure 17.12.120-1



Figure 17.12.120-2

2. Al Fresco Dining Areas outside of the public right-of-way fully contained on private property shall be allowed in areas of the City zoned for commercial and mixed-use districts as specified in Sections 17.32.010 and 17.34.020 of the zoning code.

D. Al Fresco Sidewalk Dining Area.

Al Fresco Sidewalk Dining shall only be allowed within the specific sub areas as identified in subsection (C)(1) (“Applicability”).

1. Conversion of Existing Sidewalk. Sidewalk dining areas that are contained within the existing footprint of the sidewalk without requiring widening to maintain the minimum required pedestrian through zone width.

a. Design Standards

- (1) Shall be directly adjacent to the business proposing to utilize the sidewalk dining area. The al fresco dining area may also utilize the frontage zone of a neighboring business with the written authorization from the adjacent business and building owner(s) where the sidewalk dining area is proposed to extend.
- (2) A continuous barrier separating the dining area from the pedestrian through zone shall be installed a minimum of three (3) feet in height but shall not exceed four (4) feet in height. This barrier shall be constructed of solid material such as metal, stone block, glass, planter boxes, wrought iron, or a combination thereof.

- (3) Awnings, umbrellas, and similar shade covers must allow vertical clearance of a minimum of seven (7) feet above sidewalk level.
- (4) Shall comply with all ADA requirements and the City's adopted Building and Fire Code.
- (5) All signage shall comply with the City's adopted Sign Code.
- (6) Lighting shall be provided that is architecturally compatible with the design of the al fresco dining area and surrounding area.
- (7) The use of compatible awnings, umbrellas, plants, and other human scale elements is encouraged to enhance the pedestrian experience.

b. Operational Requirements

- (1) The dining area shall be kept clear of trash, litter, and debris.
- (2) Furnishings must be maintained and cleaned regularly with no ripped, faded, or otherwise damaged materials. Any unmaintained furnishing shall be repaired or replaced immediately. The restaurant manager or business owner is responsible for maintaining the al fresco dining area free of trash, litter, and food debris.

~~(3) Waste receptacles shall be provided for patrons in the dining area.~~

- (4) Operation of an al fresco dining area shall be permitted only during such times as the hours of operation of the associated food service establishment.
- (5) An al fresco dining operation proposing to serve alcoholic beverages must be duly licensed by the state Department of Alcoholic Beverage Control and obtain a conditional use permit pursuant to Section 17.16.160, as may be required by the subject property's zoning designation, prior to the service of alcoholic beverages.
- (6) As applicable, the applicant shall post signage that the drinking or carrying of an open container of alcohol is prohibited outside the al fresco dining area.
- (7) The al fresco dining area shall comply with the City's Noise Ordinance.
- (8) Unobstructed access to fire exits, fire lanes, fire hydrants, fire hose connections, and entrances and exits of all buildings shall be maintained.

~~(9) No heating, cooking or open flames are permitted in the sidewalk dining area. Space heaters are permitted provided that they are an outdoor approved type, are located in accordance with the manufacturer's recommendations, and are located at least two (2) feet from the edge of any umbrella canvas, any foliage, or any other flammable object or material.~~

c. Application Review Procedure and Submittal Requirements

- (1) Subject to an administrative permit approved by the Development Review Committee.

- (2) An application for an al fresco dining area shall include a detailed site plan, drawn to scale, noting dimensions of the area proposed for the outdoor café; the proposed number and location of tables, chairs and other furnishings to be included in the al fresco dining area; the composition, design, and location of all physical barriers; the location and nature of any proposed landscaping; the relationship of the al fresco dining area to the indoor dining area; and all sidewalk obstructions in the vicinity of the proposed al fresco dining area.
 - (3) A detailed description of the type, color, and material of all proposed outdoor furniture, such as tables, chairs, barriers, planters, umbrellas, signs, and lighting shall be included with an application for an al fresco dining area.
2. Widening of Sidewalk. Sidewalk dining areas that require widening of the sidewalk to accommodate both the new dining area and the minimum required pedestrian through zone width.

a. Design Standards

- (1) Shall be directly adjacent to the business proposing to utilize the sidewalk dining area. The al fresco dining area may also utilize the frontage zone of a neighboring business with the written authorization from the adjacent business and building owner(s) where the sidewalk dining area is proposed to extend.
- (2) No more than two (2) parking spaces may be converted to widened sidewalk to facilitate any one al fresco dining area. The two (2) parking spaces that may be converted to widened sidewalk may either be: two (2) parking spaces on one (1) block, or one (1) space on each side of and directly adjacent to the corner of a block where two (2) public streets intersect.
- (3) Existing street trees shall be preserved and incorporated into the design of the dining area where possible.
- (4) Awnings, umbrellas, and similar shade covers must allow vertical clearance of a minimum of seven (7) feet above sidewalk level.
- (5) A continuous barrier separating the dining area from the pedestrian through zone shall be installed a minimum of three (3) feet in height but shall not exceed four (4) feet in height. This barrier shall be constructed of solid material such as metal, stone block, glass, planter boxes, wrought iron, or a combination thereof.
- (6) Shall comply with all ADA requirements and the City's adopted Building and Fire Code.
- (7) All signage shall comply with the City's adopted Sign Code.
- (8) Lighting shall be provided that is architecturally compatible with the design of the al fresco dining area and surrounding area.
- (9) The use of compatible awnings, umbrellas, plants, and other human scale elements is encouraged to enhance the pedestrian experience.

b. Operational Requirements

- (1) The dining area shall be kept clear of trash, litter, and debris.
- (2) Furnishings must be maintained and cleaned regularly with no ripped, faded, or otherwise damaged materials. Any unmaintained furnishing shall be repaired or replaced immediately. The restaurant manager or business owner is responsible for maintaining the al fresco dining area free of trash, litter, and food debris.
- ~~(3) Waste receptacles shall be provided for patrons of the dining area.~~
- (4) Operation of an al fresco dining area shall be permitted only during such times as the hours of operation of the associated food service establishment.
- (5) An al fresco dining operation proposing to serve alcoholic beverages must be duly licensed by the state Department of Alcoholic Beverage Control and obtain a conditional use permit pursuant to Section 17.16.160, as may be required by the subject property's zoning designation, prior to the service of alcoholic beverages.
- (6) As applicable, the applicant shall post signage that the drinking or carrying of an open container of alcohol is prohibited outside the al fresco dining area.
- (7) The al fresco dining area shall comply with the City's Noise Ordinance.
- (8) Unobstructed access to fire exits, fire lanes, fire hydrants, fire hose connections, and entrances and exits of all buildings shall be maintained.
- ~~(9) No heating, cooking or open flames are permitted in the sidewalk dining area. Space heaters are permitted provided that they are an outdoor approved type, are located in accordance with the manufacturer's recommendations, and are located at least two (2) feet from the edge of any umbrella canvas, any foliage, or any other flammable object or material.~~

c. Application Review Procedure and Submittal Requirements

- (1) Subject to an administrative permit approved by the Development Review Committee.
- (2) An encroachment permit shall be obtained prior to any work commencing within the public right-of-way.
- (3) Prior to approving a permit authorizing the widening of a sidewalk that results in the loss of on-street parking, findings shall be made that the loss of on-street parking will not result in an inadequate supply of parking within the downtown area.
- (4) All costs associated to the widening of sidewalk for the operation of an al fresco sidewalk dining area shall be at applicant's sole cost and expense.

- (5) An application for an al fresco dining area shall include a detailed site plan, drawn to scale, noting dimensions of the area proposed for the outdoor café; the proposed number and location of tables, chairs and other furnishings to be included in the al fresco dining area; the composition, design, and location of all physical barriers; the location and nature of any proposed landscaping; the relationship of the al fresco dining area to the indoor dining area; and all sidewalk obstructions in the vicinity of the proposed al fresco dining area.
- (6) A detailed description of the type, color, and material of all proposed outdoor furniture, such as tables, chairs, barriers, planters, umbrellas, signs, and lighting shall be included with an application for an al fresco dining area.

3. **General Liability Insurance**

- a. The applicant shall provide to the City an agreement to indemnify, defend, and hold harmless the City of Oroville, as applicable, for any and all claims for liability or damages arising from the operation of the al fresco dining area.
- b. The restaurant operator or property owner shall provide to the City of Oroville insurance certificates and endorsements evidencing general liability insurance, workers compensation insurance, and such other insurance, in such amounts and forms as may be required by the City of Oroville Risk Manager.

4. A permit to operate an Al Fresco Sidewalk Dining Area shall be subject to termination by the City at any time upon giving written notice to the applicant and/or operator at least ten (10) days prior to the hearing upon determination of the Community Development Director that one (1) or more of the conditions or provisions of this Section have been violated, or that one (1) or more factors listed in this Section have changed, or the permitted use is no longer compatible with the intended use of the City property, public sidewalk or other public right-of-way. No prior written notice shall be required to terminate the permit where the Community Development Director in their discretion, that the continued use of the City property, public sidewalk or other public right-of-way for the Al Fresco Dining Area poses an imminent threat to health or safety.

E. **Al Fresco Dining Areas Outside of the Public Right-of-Way.**

Shall apply city-wide in Commercial and Mixed-Use Districts as specified in Sections 17.32.010 and 17.34.020, including the specific sub areas as identified in subsection (C)(1) (“Applicability”).

1. **Design Standards**

- a. Shall not encroach or be constructed within the public right-of-way.
- b. Parking shall be provided in accordance with Section 17.12.070.
- c. A continuous barrier separating the dining area from drive aisles, parking and, pedestrian facilities shall be installed a minimum of three (3) feet in height. This barrier shall be constructed of solid material such as metal, stone block, glass, wrought iron, or a combination thereof. ~~Any barrier over three (3) feet in height~~

~~shall be architecturally compatible with the adjacent building and surrounded by a landscaped buffer of no less than 5 feet in width.~~

- d. Awnings, umbrellas, and similar shade covers must allow vertical clearance of a minimum of seven (7) feet.
- e. Shall comply with all ADA requirements and the City's adopted Building and Fire Code.
- f. All signage shall comply with the City's adopted Sign Code.
- g. Lighting shall be provided that is architecturally compatible with the design of the al fresco dining area and surrounding area.
- h. The use of compatible awnings, umbrellas, plants, and other human scale elements is encouraged to enhance the pedestrian experience.

2. Operational Requirements

- a. The dining area shall be kept clear of trash, litter, and debris.
- b. Furnishings must be maintained and cleaned regularly with no ripped, faded, or otherwise damaged materials. Any unmaintained furnishing shall be repaired or replaced immediately. The restaurant manager or business owner is responsible for maintaining the al fresco dining area free of trash, litter, and food debris.
- ~~e. Waste receptacles shall be provided for patrons in the dining area.~~
- d. Operation of an al fresco dining area shall be permitted only during such times as the hours of operation of the associated food service establishment.
- e. An al fresco dining operation proposing to serve alcoholic beverages must be duly licensed by the state Department of Alcoholic Beverage Control and obtain a conditional use permit pursuant to Section 17.16.160, as may be required by the subject property's zoning designation, prior to the service of alcoholic beverages.
- f. As applicable, the applicant shall post signage that the drinking or carrying of an open container of alcohol is prohibited outside the al fresco dining area.
- g. The al fresco dining area shall comply with the City's Noise Ordinance.
- h. Unobstructed access to fire exits, fire lanes, fire hydrants, fire hose connections, and entrances and exits of all buildings shall be maintained.
- ~~i. No heating, cooking or open flames are permitted in the al fresco dining area. Space heaters are permitted provided that they are an outdoor approved type, are located in accordance with the manufacturer's recommendations, and are located at least two (2) feet from the edge of any umbrella canvas, any foliage, or any other flammable object or material.~~

3. Application Review Procedure and Submittal Requirements

- a. New al fresco dining areas proposed to be added to an already developed site containing a food service establishment shall be subject to an administrative permit approved by the Development Review Committee.

- (1) Al fresco dining areas proposed as part of a larger project shall be reviewed and approved by the approval body for the project.
- b. An application for an al fresco dining area shall include a detailed site plan, drawn to scale, noting dimensions of the area proposed for the al fresco dining area; the proposed number and location of tables, chairs and other furnishings to be included in the al fresco dining area; the composition, design, and location of all physical barriers; the location and nature of any proposed landscaping; the relationship of the al fresco dining area to the indoor dining area; and all sidewalk obstructions in the vicinity of the proposed al fresco dining area.
- c. A detailed description of the type, color, and material of all proposed outdoor furniture, such as tables, chairs, barriers, planters, umbrellas, signs, and lighting shall be included with an application for an al fresco dining area.

F. **Al Fresco Seating Areas.**

Shall apply city-wide in Commercial and Mixed-Use Districts as specified in Sections 17.32.010 and 17.34.020, including the specific sub areas as identified in subsection (C)(1) (“Applicability”).

1. **Operational Standards**

- a. Alcoholic beverages shall not be served or consumed in al fresco seating areas.
- b. The furnishings shall be directly adjacent to or in close proximity of the food service establishment and shall be non-permanent in nature.
- c. The outdoor seating area shall be no larger than 25% of the floor area of the associated food service establishment, or 16 seats, whichever is greater.
- d. Furnishings may be set out as early as thirty (30) minutes prior to opening and must be removed no later than thirty (30) minutes after closing of the business.
- e. Awnings, umbrellas, and similar shade covers must allow vertical clearance of a minimum of seven (7) feet.
- f. All al fresco seating areas shall comply with the City’s Noise Ordinance.
- g. The required pedestrian through zone, emergency access/exits, and fire lanes must be maintained.
- h. Furnishings must be maintained and cleaned regularly with no ripped, faded, or otherwise damaged materials. Any unmaintained furnishing shall be repaired or replaced immediately. The restaurant manager or business owner is responsible for maintaining the al fresco dining area free of trash, litter, and food debris.
- i. No furnishings shall be placed within any required parking or landscape area.
- j. No furnishings may be placed or encroach within the public right-of-way without first obtaining appropriate approvals as specified in subsection (F)(2)(b) (“Application Review Procedure and Submittal Requirements”).

2. **Application Review Procedure and Submittal Requirements**

- a. If a proposed al fresco seating area consists only of the temporary placement of tables and chairs contained wholly on private property during the food service establishment's hours of operation and complies with the operational standards as detailed above in subsection (F)(1), a permit shall not be required.
 - b. If a proposed al fresco seating area consists only of the temporary placement of tables and chairs in the public right-of-way during the food service establishment's hours of operation and complies with the operational standards as detailed above in subsection (F)(1), an administrative al fresco seating area permit shall be required, subject to approval by the Director of Community Development, or designee. An application for an al fresco seating area permit shall contain the following:
 - (1) A site plan depicting the area within the public right-of-way proposed to be used for the al fresco seating area.
 - (2) If the proposed al fresco seating area includes the placement of furnishings in front of a business immediately adjacent to the associated food service establishment, the applicant shall submit written authorization from the adjacent business and building owner(s) to utilize the businesses frontage zone.
 - (3) Insurance certificates and endorsements evidencing general liability insurance, workers compensation insurance, and such other insurance, in such amounts and forms as may be required by the City of Oroville Risk Manager.
 - (4) An agreement to indemnify, defend, and hold harmless the City of Oroville, as applicable, for any and all claims for liability or damages arising from the operation of the al fresco seating area.
- G. **Exemptions.** Al fresco dining and seating areas that deviate from the standards set forth in this Section are subject to a Conditional Use Permit, processed in accordance with Section 17.48.010.

Table 17.12.070-1

Minimum Vehicular Parking Requirements

Land Use	Vehicular Parking Requirements
Public Assembly	
Commercial recreational facility—indoor Arcade or amusement center Bowling alley Skating rink Theater	1 space for each 300 square feet of gross floor area 2 spaces for each lane 1 space for each 300 square feet of rink area, plus 1 space for each 10 fixed seats 1 space for each 5 fixed seats, or 1 space for each 100 square feet of gross floor area if no fixed seats; exceptions may be provided for theaters with more than 500 seats, subject to a use permit
Commercial recreational facility—outdoor	Determined by use permit
Gym	1 space for each 300 square feet of gross floor area
Instructional studio	1 space for each 300 square feet of gross floor area
Library or museum	1 space for each 300 square feet of gross floor area
Meeting facility	1 space for each 5 fixed seats, or 1 space for each 100 square feet of gross floor area if no fixed seats; plus additional spaces as required by this section for accessory uses, such as offices
Restaurant or café	1 space for each 100 square feet of gross floor area
School—elementary or middle school	3 spaces for each classroom
School—high school	7 spaces for each classroom
Land Use	
Vehicular Parking Requirements	
Residential	
Boardinghouse	1 space for each bedroom
Caretaker dwelling unit	1 space for each dwelling unit
Duplex	2 spaces for each dwelling unit
Emergency shelter	1 space per 10 adult beds
Family day care, large	2 spaces, in addition to those required for the dwelling unit
Family day care, small	None beyond requirement for dwelling unit
Home occupation	None beyond requirement for dwelling unit
Mobile home park	1 space for each dwelling unit, plus 1 guest parking space for each 4 dwelling units
Studio or 1 bedroom	1 space for each dwelling unit
2 or more bedrooms—projects with fewer than 14 dwelling units per acre	2 spaces for each dwelling unit
2 or more bedrooms—projects with 14 or more dwelling units per acre	1.5 spaces for each dwelling unit
Guest parking for multiple-family dwellings	1 space for each 4 dwelling units
Residential care facility—6 units or fewer	Same as requirements for applicable type of dwelling unit
Residential care facility—7 units or more	1 space for each 3 beds
Second dwelling unit	1 space for each dwelling unit
Single-family dwelling	2 spaces for each dwelling unit
Retail	
All “retail” uses listed in Ch. 17.28, except the following: Alcoholic beverage sales—on-premises consumption Automobile sales Gas station	1 space for each 300 square feet of gross floor area 1 space for each 100 square feet of gross floor area 1 space for each 2,000 square feet of site area As required for individual accessory uses; minimum of 2 spaces
Restaurant or café	1 space for each 4 seats, including outdoor seating
Al fresco dining	1 space for each 4 seats
Mobile home, boat or recreational vehicle sales	1 space for each 1,000 square feet of site area
Services	
All “services” uses listed in Ch. 17.28, except the following:	1 space for each 300 square feet of gross floor area

Land Use	Vehicular Parking Requirements
Bed and breakfast	1 space for each guest room, plus 1 space for any resident manager
Car wash	2 spaces for each wash bay
Hospital	1.1 spaces for each bed
Hotel or motel	1 space for each guest room, plus additional spaces as required by this section for accessory uses
Mortuary	1 space for each 6 fixed seats, or 1 space for each 100 square feet of gross floor area if no fixed seats
Personal services	1 space for each 200 square feet of gross floor area
<i>Manufacturing, Wholesale, Repair and Storage</i>	
All “manufacturing, wholesale, repair and storage” uses listed in Ch. 17.28, except the following:	1 space for each 1,000 square feet of gross floor area; minimum of 2 spaces
Mini-storage facility	1 space for each 3,000 square feet of gross floor area; minimum of 4 spaces
Research laboratories	1 space for each 300 square feet of gross floor area
Warehousing	1 space for each 2,000 square feet of gross floor area used for storage, plus 1 space for each 300 square feet of other gross floor area
<i>Transportation and Infrastructure</i>	
All “transportation and infrastructure” uses listed in Ch. 17.28	1 space for each 1,000 square feet of gross floor area; minimum of 4 spaces

J. Parking Requirements in DH-O Districts. Notwithstanding any other provision of this section, in downtown historic overlay (DH-O) districts, the following minimum parking requirements shall apply:

1. For single-family residential uses in a DH-O district, no parking spaces shall be required, provided that all of the following circumstances exist:
 - a. No off-street parking spaces have already been constructed on the property.
 - b. The property qualifies as a landmark, as provided in Section [17.48.040](#).
2. Residential uses in a DH-O district shall be eligible for the on-street parking credit described in this section.
3. In any RP/DH-O district, all required parking spaces shall be located within the building’s rear setback.
4. Seating in an al fresco dining area of a restaurant or café use within the “Al Fresco Sidewalk Dining Area” of the DH-O, as defined in Section 17.12.120(C)(1), shall not count towards the minimum vehicular parking requirements for the use.

17.32.010 Allowed uses in commercial districts.

The uses allowed in commercial districts shall be as shown in Table 17.32.010-1. These uses include:

- A. **Permitted Use (P).** Uses that are shown with a “P” shall be permitted, subject to obtaining a zoning clearance, as provided in Section 17.48.030 (Zoning clearances) of this title, as well as any building permits or other permits required by this Code.
- B. **Administrative Permit Required (AP).** Uses that are shown with an “AP” shall be subject to obtaining an administrative permit, as provided in Section 17.48.020 (Administrative permits) of this title.
- C. **Use Permit Required (UP).** Uses that are shown with a “UP” shall be subject to obtaining a use permit, as provided in Section 17.48.010 (Use permits) of this title.
- D. **Use-Specific Regulations (S).** Uses that are shown with an “S” shall be subject to permit requirements as provided in the specific regulations for that use. The table indicates where the use-specific regulations are located in this Code.
- E. **Use Not Allowed (-).** Uses that are shown with a “-”, or that are not listed, shall not be allowed, except as provided in Sections 17.08.090 (Interpretation regarding allowable uses of land) and 17.48.090 (Nonconforming uses and structures) of this title.

Table 17.32.010-1

Allowed Uses in Commercial Districts

Key	
P	Permitted use, subject to zoning clearance
AP	Administrative permit required
UP	Use permit required
S	See use-specific regulations for permit requirement
-	Use not allowed

Land Use	Zoning Districts						Use-Specific Regulations
	CN	C-1	C-2	CH	CLM	OF	
Local Food Uses							
Neighborhood food and beverage sales	AP	AP	AP	AP	AP	AP	17.16.220 (Neighborhood food and beverage sales)
Urban agriculture	S	S	S	S	S	S	17.16.230 (Urban agriculture)
Public Assembly							
Carnival, circus or fair	AP	AP	AP	AP	AP	UP	17.16.060 (Temporary uses and buildings)
Commercial recreational facility-indoor, 10,000 square feet or less of gross floor area	UP	P	P	P	UP	-	-
Commercial recreational facility-indoor, more than 10,000 square feet of gross floor area	-	UP	P	UP	UP	-	-
Commercial recreational facility-outdoor	-	UP	P	-	UP	-	-
Concert or performance	AP	AP	AP	AP	AP	-	17.16.060 (Temporary uses and buildings)
Library or museum	-	UP	UP	UP	UP	UP	-
Meeting facility—10,000 square feet or less of gross floor area	P	P	P	UP	UP	P	-
Meeting facility-more than 10,000 square feet of gross floor area	-	UP	P	-	UP	UP	-
Park or playground	UP	UP	UP	UP	UP	UP	-
School, public	-	P	P	UP	UP	UP	-
School, private	-	P	P	-	-	UP	-
Training facility	-	UP	UP	-	-	UP	-
Residential							
Caretaker residence	UP	UP	UP	UP	UP	-	-
Family day care, large	S	S	S	S	S	-	17.16.050 (Family day care homes)
Family day care, small	P	P	P	P	P	-	17.16.050 (Family day care homes)
Home occupation, low-impact	P	P	P	-	-	-	17.16.040 (Home occupations)
Home occupation, moderate-impact	AP	AP	AP	-	-	-	17.16.040 (Home occupations)

Land Use	Zoning Districts						Use-Specific Regulations
	CN	C-1	C-2	CH	CLM	OF	
Residential care facility—6 units or fewer	P	P	P	P	P	-	-
Residential care facility—7 units or more	-	-	-	-	-	-	-
Retail							
Alcoholic beverage sales	UP	UP	UP	-	-	-	-
Al fresco dining areas	S	S	S	S	S	-	17.12.120 (Al Fresco Dining and Seating)
Al fresco seating areas	S	S	S	S	S	-	17.12.120 (Al Fresco Dining and Seating)
Building supply	-	-	P	-	P	-	-
Cannabis retail	-	-	-	-	-	-	-
Equipment and machinery sales or rental	-	-	P	-	P	-	-
Drive-through establishment—pharmacy	P	P	P	P	P	-	17.16.080 (Drive-through establishments)
Drive-through establishment—all other uses	UP	UP	UP	UP	UP	-	17.16.080 (Drive-through establishments)
Farmers' market	AP	AP	AP	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Food and beverage sales—10,000 square feet or less of gross floor area	P	P	P	P	P	-	-
Food and beverage sales—10,001 to 40,000 feet of gross floor area	UP	P	P	UP	-	-	-
Food and beverage sales—more than 40,000 square feet of gross floor area	-	P	P	UP	-	-	-
Funeral merchandise sales	-	UP	UP	-	-	UP	-
Gas station	-	UP	P	P	P	-	17.16.070 (Gas stations)
General retail—10,000 square feet or less of gross floor area	P	P	P	P	P	-	-
General retail—10,001 to 40,000 feet of gross floor area	UP	P	P	UP	P	-	-
General retail—more than 40,000 square feet of gross floor area	-	UP	P	UP	UP	-	-
Mobile food vendor	AP	AP	AP	AP	AP	AP	17.16.150 (Mobile food vending)

Land Use	Zoning Districts						Use-Specific Regulations
	CN	C-1	C-2	CH	CLM	OF	
Pet store	UP	UP	UP	-	-	-	17.16.120 (Animal keeping)
Plant nursery or garden supply store	UP	P	P	P	-	-	-
Restaurant or café	P	P	P	P	P	-	-
Seasonal holiday agricultural sales	AP	AP	AP	AP	AP	-	17.16.060 (Temporary uses and buildings)
Shopping center	UP	UP	P	UP	UP	-	-
Smoke shop	UP	UP	UP	UP	UP	UP	17.16.190 (Smoke shops)
Vehicle sales—automobile, new	-	UP	P	UP	P	-	-
Vehicle sales—all other	-	-	UP	UP	UP	-	-
Services							
Animal grooming	UP	UP	UP	-	-	-	17.16.120 (Animal keeping)
Animal keeping, noncommercial	P	P	P	P	P	-	17.16.120 (Animal keeping)
Bank or financial service	P	P	P	-	P	P	-
Bed and breakfast	UP	P	P	P	-	-	-
Business support service	P	P	P	P	P	P	-
Cannabis testing	-	-	-	-	-	-	-
Car wash	-	UP	P	P	P	-	17.16.090 (Car and vehicle washes)
Catering service	-	P	P	-	P	-	-
Child day care center	P	P	P	UP	UP	-	-
Gym	P	P	P	-	P	-	-
Hospital	-	UP	UP	-	-	-	-
Hotel or motel	-	UP	P	UP	UP	-	-
Instructional or production studio	P	P	P	-	P	P	-
Kennel	-	-	UP	-	UP	-	17.16.120 (Animal keeping)
Mortuary	-	UP	UP	UP	P	UP	-
Office—professional	P	P	P	-	P	P	-
Office—all other	P	P	P	-	P	P	-
Outpatient services	UP	P	P	-	-	-	-
Personal services—low-impact	P	P	P	P	P	-	-
Personal services—moderate-impact	UP	UP	UP	UP	UP	-	-
Recreational vehicle (RV) park	-	-	UP	P	UP	-	-

Land Use	Zoning Districts						Use-Specific Regulations
	CN	C-1	C-2	CH	CLM	OF	
Substance abuse counseling	-	-	P	-	P	-	-
Temporary real estate office	AP	AP	AP	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Temporary uses not listed here	S	S	S	S	S	S	17.16.060 (Temporary uses and buildings)
Veterinarian	UP	UP	P	-	P	-	17.16.120 (Animal keeping)
Manufacturing, Wholesale, Repair and Storage							
Food or beverage production	-	UP	UP	-	UP	-	-
Landscape material sales	-	UP	UP	-	P	-	-
Manufacturing—20,000 square feet or less of gross floor area	-	UP	P	-	P	P	-
Manufacturing—more than 20,000 square feet of gross floor area	-	-	UP	-	UP	UP	-
Metalwork—20,000 square feet or less of gross floor area	-	UP	UP	P	P	UP	-
Metalwork—more than 20,000 square feet of gross floor area	-	-	UP	UP	UP	UP	-
Mini-storage facility	S	S	S	-	S	-	17.16.060 17.44.060 (MS-O-Mini-storage overlay)
Outdoor storage—250 square feet or less	P	P	P	P	P	P	17.16.140 (Outdoor storage)
Outdoor storage—more than 250 square feet	UP	UP	P	UP	P	UP	17.16.140 (Outdoor storage)
Recycling facility or center	-	UP	P	-	P	-	-
Repair service, large equipment—20,000 square feet or less of gross floor area	UP	UP	P	P	P	-	-
Repair service, large equipment—more than 20,000 square feet of gross floor area	-	-	UP	UP	UP	-	-
Repair service, small appliances	P	P	P	-	P	-	-
Research laboratories	-	-	UP	-	UP	UP	-
Scrap or dismantling yard	-	-	-	-	UP	-	-
Vehicle service or repair	-	UP	P	P	P	-	-
Warehousing	-	-	-	-	P	-	-
Transportation and Infrastructure							

Land Use	Zoning Districts						Use-Specific Regulations
	CN	C-1	C-2	CH	CLM	OF	
Parking garage or lot as primary use	UP	UP	P	-	UP	UP	-
Public safety facility	UP	UP	UP	UP	UP	UP	-
Solar energy system, Tier 1	P	P	P	P	P	P	17.16.180 (Solar energy systems)
Solar energy system, Tier 2	AP	AP	AP	AP	AP	AP	17.16.180 (Solar energy systems)
Solar energy system, Tier 3	UP	UP	UP	UP	UP	UP	17.16.180 (Solar energy systems)
Utility building or substation	P	P	P	P	P	P	-
Vehicle depot	-						

(Ord. 1749 § 4; Ord. 1763 §§ 18, 23, 24, 26; Ord. 1769 § 9; Ord. 1775 § 7; Ord. 1778 § 4; Ord. 1784 § 7; Ord. 1794 § 2; Ord. 1819 § 7, 2017; Ord. 1830 § 6, 2018; Ord. 1834 § 4, 2019; Ord. 1850 § 3, 2021)

17.34.020 Allowed uses in mixed-use districts.

Table 17.34.020-1 shows the uses allowed in the mixed-use districts. These uses include:

- A. **Permitted Use (P).** Uses shown with a “P” are permitted by-right with zoning clearance approval. See Section [17.48.030](#) (Zoning clearances).
- B. **Administrative Permit Required (AP).** Uses shown with an “AP” require an administrative permit. See Section [17.48.020](#) (Administrative permits).
- C. **Use Permit Required (UP).** Uses shown with a “UP” require a use permit. See Section [17.48.010](#) (Use permits).
- D. **Use-Specific Regulations (S).** Uses shown with an “S” must comply with specific regulations for that use. The table identifies the section number for the use-specific regulations.
- E. **Use Not Allowed (-).** Uses shown with a “-” or that are not listed, are not allowed.

Table 17.34.020-1:

Allowed Uses in Mixed-Use Districts

Key	
P	Permitted use, subject to zoning clearance
AP	Administrative permit required
UP	Use permit required
S	See use-specific regulations for permit requirement
-	Use not allowed

Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
Local Food Uses				
Neighborhood food and beverage sales	AP	AP	AP	17.16.220 (Neighborhood food and beverage sales)

Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
Urban agriculture	S	S	S	17.16.230 (Urban agriculture)
Public Assembly				
Carnival, circus or fair	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Commercial recreational facility—indoor, 10,000 square feet or less of gross floor area	UP	UP	P	
Commercial recreational facility—indoor, more than 10,000 square feet of gross floor area	UP	UP	UP	
Commercial recreational facility—outdoor	-	-	UP	
Concert or performance	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Library or museum	UP	UP	UP	
Meeting facility—10,000 square feet or less of gross floor area	P	P	P	
Meeting facility—more than 10,000 square feet of gross floor area	UP	UP	P	
Park or playground	UP	UP	UP	
School, public	UP	UP	UP	
School, private	UP	UP	UP	
Training facility	UP	UP	UP	
Residential [1]				
Caretaker residence	UP	UP	-	
Family day care, large	S	S	S	17.16.050 (Family day care homes)
Family day care, small	P	P	P	17.16.050 (Family day care homes)
Home occupation, low-impact	S	S	S	17.16.040 (Home occupation)
Home occupation, moderate-impact	S	S	S	17.16.040 (Home occupation)
Mixed-use development	P	P	P	17.16.030 (Mixed-use development)
Multiple-family dwellings [1]	-	P	P	
Residential care facility—6 units or fewer	P	P	P	
Residential care facility—7 units or more	UP	UP	-	

Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
Retail				
Alcoholic beverage sales	UP	UP	UP	
Al fresco dining areas	S	S	S	17.12.120 (Al Fresco Dining and Seating)
Al fresco seating areas	S	S	S	17.12.120 (Al Fresco Dining and Seating)
Building supply	-	-	-	
Equipment and machinery sales or rental	-	-	-	
Drive-through establishment—pharmacy	-	-	UP	17.16.080 (Drive-through establishments)
Drive-through establishment all other uses	-	-	UP	17.16.080 (Drive-through establishments)
Farmers market	AP	AP	AP	
Food and beverage sales—10,000 square feet or less of gross floor area	P	P	P	
Food and beverage sales—10,001 to 40,000 square feet of gross floor area	UP	P	P	
Food and beverage sales—more than 40,000 square feet of gross floor area	UP	UP	P	
Funeral merchandise sales	UP	UP	UP	
Gas station	-	-	UP	17.16.070 (Gas stations)
General retail—10,000 square feet or less of gross floor area	P	P	P	
General retail—10,001 to 40,000 feet of gross floor area	UP	P	P	
General retail—more than 40,000 square feet of gross floor area	-	UP	UP	
Mobile food vendor	AP	AP	AP	17.16.150 (Mobile food vending)
Pet store	UP	UP	UP	17.16.120 (Animal keeping)
Plant nursery or garden supply store	UP	UP	P	
Restaurant or café	P	P	P	
Seasonal holiday agricultural sales	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Shopping center, 1,000 square feet or less of gross floor area	P	P	P	
Shopping center, 1,000 square feet or greater of gross floor area	P	UP	P	

Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
Smoke shop	UP	UP	UP	17.36.010 (Allowed uses in industrial districts)
Vehicle sales—automobile, new	-	-	P	
Vehicle sales—all other	-	-	UP	
Services				
Animal grooming	UP	UP	UP	17.16.120 (Animal keeping)
Animal keeping, noncommercial	P	P	P	17.16.120 (Animal keeping)
Bank or financial service	P	P	P	
Bed and breakfast	P	P	P	
Business support service	P	P	P	
Car wash	-	UP	UP	17.16.090 (Car and vehicle washes)
Catering service	P	P	P	
Child day care center	P	P	P	
Gym	P	P	P	
Hospital	-	-	-	
Hotel or motel	UP	-	UP	
Instructional or production studio	P	-	P	
Kennel	-	-	UP	17.16.120 (Animal keeping)
Mortuary	UP	-	UP	
Office—professional	P	P	P	
Office—all other	P	P	P	
Outpatient Services	UP	UP	UP	
Personal services—low-impact	P	P	P	
Personal services—moderate-impact	UP	UP	UP	
Temporary real estate office	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Temporary uses not listed here	S	S	S	17.16.060 (Temporary uses and buildings)
Veterinarian	UP	UP	P	17.16.120 (Animal keeping)
Manufacturing, Wholesale, Repair, and Storage				
Food or beverage production	UP	-	UP	
Landscape material sales	-	-	UP	
Manufacturing—20,000 square feet or less of gross floor area	UP	-	UP	

Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
Metalwork—10,000 square feet or less of gross floor area	UP	-	UP	
Mini-storage facility	-	-	-	17.44.060 (MS-O: mini-storage overlay)
Outdoor storage—250 square feet or less	-	-	P	17.16.140 (Outdoor storage)
Outdoor storage—more than 250 square feet	UP	UP	UP	17.16.140 (Outdoor storage)
Repair service, large equipment—20,000 square feet or less of gross floor area	-	-	UP	
Repair service, small appliances	P	P	P	
<i>Transportation and Infrastructure</i>				
Parking garage or lot as primary use	UP	UP	UP	
Public safety facility	UP	UP	UP	
Solar energy system, Tier 1	P	P	P	17.16.180 (Solar energy systems)
Solar energy system, Tier 2	AP	AP	AP	17.16.180 (Solar energy systems)
Solar energy system, Tier 3	UP	UP	UP	17.16.180 (Solar energy systems)
Utility building or substation	P	P	P	

[1] Residential uses in the downtown mixed-use district are permitted only on upper stories above ground floor commercial uses.

(Ord. 1819 § 8, 2017; Ord. 1830 § 7, 2018)

12.04.030 Placing produce, merchandise, etc., on streets and sidewalks.

Except as provided in this chapter, **Section 17.12.120**, and Section 17.16.130, it is unlawful for any person to leave or cause to be left, place or cause to be placed, on any sidewalk, alley, gutter or street within the city, any produce, wares, merchandise, store boxes, other substances or material, objects or implements whatsoever of any class, kind or character, except for short periods during the loading or discarding of such articles; provided, however, that bicycles may be placed in the gutter or street. (Code 1954 § 19.6; Ord. 1533 § 1; Ord. 1750 § 10)



CITY OF OROVILLE STAFF REPORT

TO: MAYOR PITTMAN AND COUNCIL MEMBERS

**FROM: PATRICK PIATT, COMMUNITY DEVELOPMENT DIRECTOR
CONNOR MUSLER, CONTRACT PLANNER**

**RE: FIRST READING OF ZONING CODE AMENDMENT (ZC) 23-03,
AMENDING SECTION 17.12.060 (TREE PRESERVATION),
SECTION 17.12.065 (OAK TREE LOSS MITIGATION) AND
SECTION 17.48.070 (TREE REMOVAL PERMITS) OF THE
OROVILLE MUNICIPAL CODE (OMC)**

DATE: JANUARY 2, 2024

SUMMARY

The Council will consider adopting ZC 23-03, amending the City's oak tree loss mitigation standards, requirements, and applicability as found in Section 17.12.065 of the Oroville Municipal Code (OMC). ZC 23-03 would also amend Section 17.12.060 pertaining to tree preservation requirements and Section 17.48.070 pertaining to the City's tree removal permit requirements.

DISCUSSION

The City currently has three primary municipal code sections pertaining to trees and their preservation and removal. Section 17.12.060 pertains to tree preservation requirements, Section 17.12.065 pertains to oak tree loss mitigation requirements, and Section 17.48.070 pertains to the City's tree removal permit requirements. Section 17.12.065 "Oak Tree Loss Mitigation" was added to the Oroville Municipal Code in 2015 as part of the larger "Oroville Sustainability Code Updates"; a collection of updates to bring the City's zoning code and planning documents in compliance with the 2030 General Plan that was adopted on June 2, 2009.

These three code sections are intended to work in coordination with each other, however, they currently lack clear and proper cross-referencing, and, in the case of Section 17.12.065 "Oak Tree Loss Mitigation," contain burdensome regulations and a lack of detailed exceptions for routine maintenance or the protection of property and public safety.

The intent of this ordinance is to:

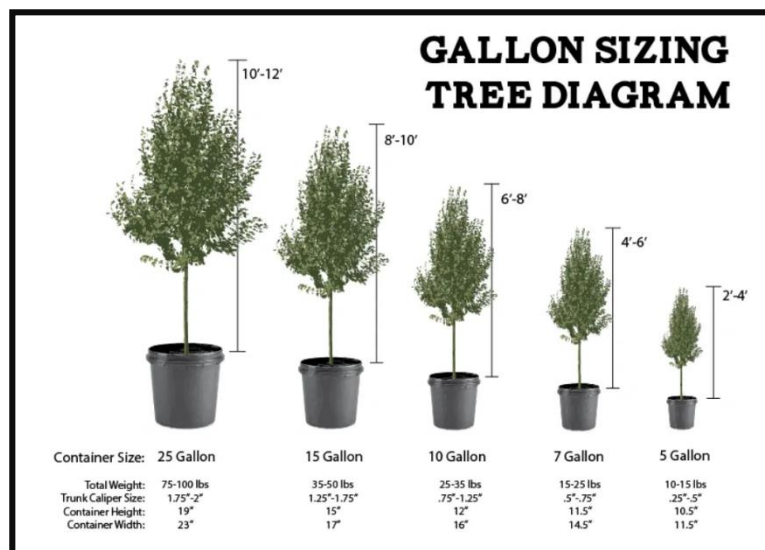
- Simplify the City’s oak tree mitigation requirements; and
- Ensure the City’s codes pertaining to tree removal and permitting requirements do not conflict and are properly referenced within applicable code sections; and
- Balance the ability of property owners to remove trees on their properties while recognizing the key factor that trees have in contributing to Oroville’s beauty and natural environment.

Based on direction received from the City Council, staff began preparing an update to the City’s oak tree mitigation regulations to simplify the overall regulations found within Section 17.12.065 of the OMC. Staff researched the cities of Chico, Rocklin, Roseville, Folsom, Fremont, and the County of Butte to further analyze how each jurisdiction approached tree removal permits and mitigation requirements and compare how the City’s current regulations compared. Staff found that the City’s current regulations were similar to the jurisdictions researched, however, the City’s regulations had a more burdensome replacement ratio of 2 inches of oak tree for every 1 inch removed and a lack of clearly outlined exceptions to the mitigation requirements.

The following changes are proposed:

Amend the Replacement Ratio

Currently, oak trees must be replaced at a 2:1 ratio (2 inches of replacement oak tree for every 1 inch removed). Staff are proposing to simplify the replacement standards to be a 1:1 ratio (1 inch of replacement oak tree for every 1 inch removed), with the replacement trees planted at a minimum size of 15 gallons.



Expand the Scenarios where Mitigation is Exempt

Currently, the only exception to the mitigation requirements of the oak tree ordinance is

for “trees removed due to poor tree health or because removal furthers urban forestry or land management practices that support the health of native plant communities, as determined by the director of parks and trees or designee.”

Staff are proposing to expand the list of exceptions to the oak tree ordinance to include:

- Removal of an oak tree that is damaged and removal is necessary to protect persons and property from imminent damage.
- Removal by fire department personnel actively fighting fire.
- When removal is determined as necessary by fire department personnel as part of fuel modification or defensible space requirements, as detailed in a defensible space inspection/report.
- Routing trimming and maintenance which do not damage or result in the death of the tree.
- Removal of a dead, dying, or tree in poor health, as determined by an arborist.

The Planning Commission held a workshop on the proposed oak tree mitigation ordinance update at their September 28, 2023, meeting. Following that workshop, staff proposed two (2) additional mitigation exceptions and one (1) revised exception.

The two (2) additional proposed mitigation exceptions were:

- Removal of an interior live oak, unless meeting the criteria for classification as a heritage tree; and
- When removal is determined as necessary by the property owner’s insurance provider, as detailed in an insurance report or other formal correspondence, to maintain homeowners’ insurance coverage.

The proposed revised exception was:

- Removal of an oak tree on a property developed with a single-family dwelling unit, provided that the following criteria is met:
 - The developed lot is not greater than ~~40~~20,000 square feet in area and is zoned either RR-20, RR-10, RL, R-1, or R-2.
 - The developed lot is located outside of the Foothill Overlay (F-O) district.
 - If the developed lot is located within the Foothill Overlay (F-O) district, the oak tree(s) proposed to be removed must be located within the rear or side yard ~~within the rear or side yard not~~ outside of a setback area abutting a street.

These three mitigation exceptions that resulted from the Planning Commission workshop were added with the intent of assisting property owners who wish to create defensible space around their homes and assist owners within the Wildland Urban Interface (WUI) to maintain insurance coverage.

Mitigation Option – In-Lieu Fee

One of the mitigation options allowed by the oak tree ordinance is the payment of an in-lieu fee. The City does not currently have an in-lieu fee established within the City's fee schedule. Based on correspondence from the City's arborist/parks, streets, and trees supervisor, staff proposes an in-lieu fee set at \$220 per inch that needs to be mitigated. This is broken down as \$55-\$60 for a 15-gallon tree, with an average of 2 crew hours (\$75 an hour per crew member) spent to plant the tree, stake it, etc. plus \$10 for miscellaneous expenses such as tree stakes.

Additional changes are proposed to OMC Sections 17.12.060 (Tree Preservation) and 17.48.070 (Tree Removal Permits). Staff are proposing to combine Section 17.12.060 and Section 17.48.070 to minimize cross referencing for two code sections that work in close coordination with each other. Minor updates are also proposed to ensure proper cross-reference between the oak tree mitigation requirements and the tree removal permit section and updates to the department director positions referenced within the code sections.

The Planning Commission conducted a public hearing at a special meeting on November 16, 2023, and adopted Resolution No. 2023-20 by a vote of 4-0, with three commissioners absent, recommending that the City Council adopt the proposed ordinance.

Following the Planning Commission's adoption of Resolution No. 2023-20, the Butte Fire Safe Council provided comments on the proposed ordinance, which is included as **Attachment 4**.

ENVIRONMENTAL REVIEW

Zoning Code Amendment ZC23-03 is not subject to the provisions of the California Environmental Quality Act ("CEQA") pursuant to Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of Environment). These exemptions cover actions taken to assure the maintenance, restoration, enhancement, or protection of natural resources or the environment where the regulatory process involves procedures for the protection of the environment. The proposed amendments to the OMC maintain regulations requiring permits for the removal of trees, including oak trees, meeting specific size criteria outlined in Title 17. Exceptions to permits and mitigation are limited to include routine tree maintenance, or when removal is determined as necessary to protect life, prevent damage to property, or for purposes of fuel management, while minimizing the removal of mature heritage trees. The proposed Zoning Code Amendment also is not subject to CEQA pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

FISCAL IMPACT

There is minimal fiscal impact associated with the recommended actions.

RECOMMENDATION

1. Waive first reading and approve Ordinance No. **XXXX** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OROVILLE AMENDING SECTION 17.12.060 "TREE PRESERVATION", SECTION 17.12.065 "OAK TREE LOSS MITIGATION", AND SECTION 17.48.070 "TREE REMOVAL PERMITS"
2. Adopt Resolution No. **XXXX** amending the City's master schedule of user and regulatory fees by adding an Oak Tree Mitigation In-Lieu Fee to the Planning Fees

ATTACHMENTS

1. Ordinance No. **XXXX**
2. Resolution No. **XXXX**
3. November 16, 2023, Planning Commission Package.
4. Public Comments from Butte Safe Fire Council
5. Ordinance with Track Changes

Attachment 1

**CITY OF OROVILLE
ORDINANCE NO. 1877**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OROVILLE AMENDING SECTION 17.12.060 “TREE PRESERVATION”, SECTION 17.12.065 “OAK TREE LOSS MITIGATION”, AND SECTION 17.48.070 “TREE REMOVAL PERMITS”

WHEREAS, the City of Oroville has prepared an Ordinance to amend Section 17.12.060 “Tree Preservation”, Section 17.12.065 “Oak Tree Loss Mitigation”, and Section 17.48.070 “Tree Removal Permits”; and

WHEREAS, the Oroville 2030 General Plan sets forth goals, objectives, and policies to protect, manage, and expand urban forestry and native vegetation while also considering public safety; and

WHEREAS, the City of Oroville currently requires tree removal permits to protect the City’s mature trees and a tree removal permit must be obtained prior to the removal of a protected tree, including native oak trees; and

WHEREAS, OMC Section 17.12.065 establishes regulations to protect native oak trees and outlines requirements for mitigation when removed; and

WHEREAS, City Staff identified challenges in implementing the current oak tree mitigation code as written and received direction from the City Council to identify opportunities to address those challenges; and

WHEREAS, the proposed amendments to OMC Section 17.12.065 include expanding the exceptions to the permit and mitigation requirements and simplifying the mitigation replacement ratio; and

WHEREAS, amendments are also proposed to Sections 17.12.060 and 17.48.070; and

WHEREAS, the Oroville Development Review Committee reviewed the proposed amendments at their regular meeting on September 14th, 2023; and

WHEREAS, the Oroville Planning Commission held a workshop at their September 28, 2023, meeting requesting modifications to the proposed ordinance and subsequently held a special meeting on November 16, 2023, and recommends that the City Council adopt the proposed changes to Section 17.12.060, Section 17.12.065, and Section 17.48.070; and

WHEREAS, the proposed amendments are internally consistent with other applicable provisions of the Zoning Code, the 2030 General Plan, and compatible with the uses authorized in the applicable zoning districts for which the revisions are proposed; and

WHEREAS, adoption of this Ordinance is not subject to the provisions of the California Environmental Quality Act (“CEQA”) pursuant to Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of Environment). These exemptions cover actions taken to assure the maintenance, restoration, enhancement, or protection of natural resources or the environment where the regulatory process involves procedures for the protection of the environment. The proposed amendments to the OMC maintain regulations requiring permits for the removal of trees, including oak trees, meeting specific size criteria outlined in Title 17. Exceptions to permits and mitigation are limited to include routine tree maintenance, or when removal is determined as necessary to protect life, prevent damage to property, or for purposes of fuel management, while minimizing the removal of mature heritage trees. The proposed Zoning Code Amendment also is not subject to CEQA pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; and

WHEREAS, at a duly noticed public hearing, the City Council considered the comments and concerns of public agencies, property owners, and members of the public who are potentially affected by the approval of the code changes described herein and considered the City’s staff report regarding the project.

NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF OROVILLE DO ORDAIN AS FOLLOWS:

SECTION 1: Findings.

The City Council of the City of Oroville adopts and finds as true and correct the aforementioned recitals and incorporate them herein as findings.

Section 2: Amendment to the Oroville Municipal Code Section 17.12.060 (Tree Preservation)

The Oroville Municipal Code Section 17.12.060 (Tree Preservation) is hereby amended to read as follows:

17.12.060 RESERVED

Section 3: Amendment to the Oroville Municipal Code Section 17.12.065 (Oak Tree Loss Mitigation)

The Oroville Municipal Code Section 17.12.065 (Oak Tree Loss Mitigation) is hereby amended to read as follows:

17-12.065 Oak Tree Loss Mitigation

A. Purpose.

Oroville’s native oak trees provide wildlife habitat, control erosion, maintain water flow and quality, moderate temperatures, improve air quality, and contribute to the aesthetic character of the area. The purpose of this section is to preserve Oroville’s valuable native oak trees by protecting them during grading and construction, minimizing their removal,

replacing them when removal is approved, and monitoring them to ensure that they are maintained.

B. Applicability. The requirements of this section apply to any native oak tree on public or private land with the following minimum diameter at breast height (dbh) (i.e., 4.5 feet from the ground):

1. Single main trunk: 6 inches.
2. Multiple trunks (in aggregate): 10 inches.

“Native oak tree” means an oak tree that is native to Butte County’s natural oak communities, including valley oak, black oak, blue oak, and canyon oak. Interior live oak, while native to Butte County, is not included in this definition and their removal is not subject to the requirements of this section unless meeting the criteria for classification as a heritage tree.

C. Permits Required.

1. **Tree Removal.** The city requires a tree removal permit in accordance with Section 17.48.070 to remove any oak tree that meets the applicability criteria above in subsection B (Applicability). The property owner must file a tree survey and an oak tree preservation plan with the community development department before the city will issue a permit. The plan shall describe all efforts to preserve trees to the extent feasible, replace trees that are removed, and maintain replacement trees. In addition, the plan shall address replacing any replacement trees that do not survive.
2. **Grading.** Grading projects shall retain oak trees wherever possible. To receive a grading permit, applicants must address oak tree preservation in their grading plan by identifying methods to:
 - a. Identify trees to be retained, through flagging or other obvious marking methods, prior to any grading.
 - b. Avoid compaction of the root zone and mechanical damage to trunks and limbs by installing temporary fencing along the outermost edge of the dripline of each retained tree or group of trees.
 - c. Avoid trenching within driplines of retained trees. Any required utility line poles within the dripline should be installed by boring or drilling through the soil.
3. **Heritage Trees.**
 - a. Grading, filling, trenching, paving, irrigation, and landscaping plans shall avoid the removal of or damage to the health of a heritage tree.
 - b. A heritage tree may only be removed when approved as appropriate by a certified arborist, and upon receiving a tree removal permit in accordance with subsection (C)(1).

- D. **Mitigation Options.** An applicant who has received a tree removal permit shall mitigate the removal by completing one or a combination of the following options, as well as paying a monitoring fee per tree as set by the city council.
1. **On-Site Replacement.** Where physically feasible, a tree removed under a tree removal permit shall be replaced on the same property, in accordance with the standards in subsection F (Replacement Standards).
 2. **In-Lieu Fee.** When replacing a tree on site is not feasible, an applicant granted a tree removal permit may pay an in-lieu fee as set by the city council.
 3. **Off-Site Replacement.** When replacing a tree on site is not feasible, an applicant granted a tree removal permit may plant replacement trees off site if:
 - a. The off-site location is permanently protected under a conservation easement that includes a maintenance plan that meets the requirements in subsection F (Replacement Standards).
 - b. The off-site location is appropriate for oak tree plantings, as determined by the director of public works or designee.
 - c. The off-site location is sufficient to plant and maintain replacement trees in accordance with the standards in subsection F (Replacement Standards).
- E. **Exceptions to Permits and Mitigation Requirements.** A tree removal permit or mitigation shall not be required for the following circumstances:
1. When an oak tree is damaged and the city administrator, director of public works, director of community development, public safety personnel, code enforcement officer, or their designees has determined that its immediate removal is necessary to protect persons from imminent personal injury or to prevent imminent and substantial damage to property.
 2. Removal of an interior live oak, unless meeting the criteria for classification as a heritage tree.
 3. When removal is determined to be necessary by fire department personnel actively engaged in fighting a fire.
 4. When removal is determined to be necessary by fire department personnel to comply with fuel modification requirements or defensible space requirements, as detailed in a defensible space inspection/report.
 5. When removal is determined as necessary by the property owner's insurance provider, as detailed in an insurance report or other formal correspondence, to maintain homeowners' insurance coverage.
 6. Routine trimming, pruning, or maintenance which does not cause damage or death of a tree.

7. Removal of an oak tree that is dead, dying, or in poor health as determined by a certified arborist.
8. Removal of an oak tree on a property developed with a single-family dwelling unit, provided that the following criteria is met:
 - a. The developed lot is not greater than 20,000 square feet in area and is zoned either RR-20, RR-10, RL, R-1, or R-2.
 - b. The developed lot is located outside of the Foothill Overlay (F-O) district.
 - (1) If the developed lot is located within the Foothill Overlay (F-O) district, the oak tree(s) proposed to be removed must be located outside of a setback area abutting a street.

F. Replacement Standards. Replacement trees must meet the following standards.

1. **Replacement Ratio.** Each inch in dbh of oak removed shall be replaced by 1 inch of native oaks (1:1 ratio), using trees planted at a minimum size of 15 gallons.
2. **Timeframe.** The schedule for planting of the replacement trees shall be subject to approval by the review authority as detailed in Section 17.48.070(C)(3).
3. **Maintenance.** The applicant is responsible for protecting the health of a replacement tree. Replacement trees shall be irrigated in accordance with Oroville Municipal Code Section 17.12.050 (Landscaping standards). A replacement tree that dies within 5 years shall be replaced on a one-to-one basis.
4. **Monitoring.** The applicant shall monitor the replacement tree and report its health status to the community development department annually, or upon request, for 5 years following planting.
5. **Damage.** Purposeful damaging or neglect of a replacement tree will invalidate the tree removal permit.

G. Oak Tree Maintenance Fund. The city shall place in-lieu tree-removal fees in an oak tree maintenance fund to be expended only for the following:

1. **Planting New Trees.** Planting oak trees on public and private property within Oroville. These expenditures may include purchasing and planting trees, preparing the land for planting, and installing irrigation improvements. Private property owners may apply to have an oak tree planted on their property at public expense, provided the expense does not exceed the in-lieu fee amount.
2. **Maintaining Existing Trees.** Caring for and preserving existing oak trees on public property or easements.

- H. **Monitoring.** The community development department shall prepare an annual report that addresses the following topics:
1. **Tree Inventory.** The report shall inventory all replacement trees, including their type and health status, as reported by an applicant.
 2. **Fund Accounting.** The report shall account for the balance in the oak tree mitigation fund and summarize the use to which the fund was put during the preceding year.
- I. **Fines.** The city may issue a fine for the destruction of an oak tree in violation of this section. Fines may be as high as the cost to replace and maintain up to 3 times the number of trees required by this section. The city shall deposit funds received from fines in the oak tree mitigation fund. (Ord. 1819 § 3, 2017).

Section 4: Amendment to the Oroville Municipal Code Section 17.48.070 (Tree Removal Permits)

The Oroville Municipal Code Section 17.48.070 (Tree Removal Permits) is hereby amended to read as follows:

17-48.070 Tree Removal Permits

- A. **Purpose.** The purpose of requiring tree removal permits is to preserve the city's mature trees by placing appropriate restrictions on their removal, while also allowing the removal of trees when necessary to protect the health, safety and welfare of the public.
- B. **Applicability.** The removal of any protected tree requires approval of a tree removal permit. The requirements of this section shall apply to any protected tree.
1. A protected tree is defined as:
 - a. Any tree on public property; or
 - b. Any tree on private property that has a trunk diameter of at least 24 inches at 54 inches above grade.
 - c. An oak tree meeting the criteria of Section 17.12.065.
- C. **Application.**
1. Application for a tree removal permit shall be made in a form prescribed by the zoning administrator and accompanied by a fee established by resolution of the city council. Only the owner of the site or their authorized agent may apply for a tree removal permit.
 2. The application for a tree removal permit shall include a map depicting the location, size and type of all trees within or immediately adjacent to the subject property. The map shall also depict any permanent buildings or structures on the subject property.
 3. The review authority for a tree removal permit shall be determined as follows:

- a. For trees on public property, unless the removal is associated with a proposed development that requires planning commission approval, the director of public works or designee shall be responsible for issuing tree removal permits.
- b. For trees on private property, unless the removal is associated with a proposed development that requires planning commission approval, the zoning administrator shall be responsible for issuing tree removal permits.
- c. For any proposed development that requires planning commission approval, the planning commission shall review the trees being removed, and approval of the project shall also be approval to remove all specified trees.

D. Required Findings.

1. A tree removal permit shall not be issued unless the review authority finds, based on substantial evidence, that the owner has demonstrated that the removal is necessary in order to accomplish any one of the following objectives:
 - a. To ensure public safety as it relates to the health of the tree, potential hazard to life or property, and proximity to existing or proposed structures, and interference with utilities or sewers.
 - b. To allow reasonable enjoyment of the property, including sunlight access and the right to develop the property.
 - c. To pursue good, professional practices of forestry or landscape design.
2. Any action regarding the issuance of a tree removal permit may be appealed, as provided in Section 17.56.100. Subject trees shall not be removed prior to the completion of the required appeal period. (Ord. 1749 § 4; Ord. 1762 § 12)

- E. Removal Without a Permit.** If personal injury or property damage is imminently threatened, the city administrator, director of public works, director of community development, public safety personnel, code enforcement officer, or their designees may authorize the removal of a protected tree without obtaining the required permit. The removal shall be reported to the zoning administrator within 5 business days. (Ord. 1749 § 4).

Section 5: Environmental Determination.

Zoning Code Amendment ZC23-03 is not subject to the provisions of the California Environmental Quality Act ("CEQA") pursuant to Section 15307 (Actions by Regulatory

Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of Environment). These exemptions cover actions taken to assure the maintenance, restoration, enhancement, or protection of natural resources or the environment where the regulatory process involves procedures for the protection of the environment. The proposed amendments to the OMC maintain regulations requiring permits for the removal of trees, including oak trees, meeting specific size criteria outlined in Title 17. Exceptions to permits and mitigation are limited to include routine tree maintenance, or when removal is determined as necessary to protect life, prevent damage to property, or for purposes of fuel management, while minimizing the removal of mature heritage trees. The proposed Zoning Code Amendment also is not subject to CEQA pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Section 6: Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any 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 passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Section 7: Effective Date.

This ordinance shall take effect thirty (30) days after the date of its final adoption. The City Clerk shall certify to adoption thereof and cause its publication according to law.

PASSED AND ADOPTED by the City Council of the City of Oroville at a regular meeting held on this 2ND day of January 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

David Pittman, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott E. Huber, City Attorney

Kayla Reaster, Assistant City Clerk

Attachment 2

RESOLUTION NO. 9213

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OROVILLE AMENDING THE CITY'S MASTER SCHEDULE OF USER AND REGULATORY FEES PERTAINING TO THE ADDITION OF AN IN-LIEU FEE FOR OAK TREE MITIGATION

WHEREAS, user and regulatory fees are established by the City Council; and

WHEREAS, on February 21, 2023, the City Council conducted a public hearing and adopted Resolution No. 9127, adopting an updated schedule of user and regulatory fees; and

WHEREAS, OMC Section 17.12.065(D)(2) allows an applicant granted a tree removal permit to pay an in-lieu fee as set by the city council; and

WHEREAS, the City's master schedule of user and regulatory fees does not contain said in-lieu fee for oak tree mitigation; and

WHEREAS, in-lieu tree-removal fees shall be placed in an oak tree maintenance fund to be expended only for planting new oak trees and maintaining existing oak trees; and

WHEREAS, City Staff examined the cost of planting an oak tree and propose an in-lieu fee of \$220 per inch of oak tree requiring mitigation; and

WHEREAS, the in-lieu fee of \$220 per inch of oak tree requiring mitigation is broken down as up to \$60 for a 15-gallon tree; \$75 per crew member, with an average of 2 crew hours spent planting the tree; and \$10 for tree stakes and miscellaneous expenses; and

WHEREAS, the Planning Commission of the City of Oroville at a special meeting on November 16, 2023, adopted Resolution No. 2023-20 recommending that the City Council adopt an in-lieu fee of \$220 per inch of oak tree requiring mitigation; and

WHEREAS, at a duly noticed public hearing, the City Council considered the comments and concerns of public agencies, property owners, and members of the public who are potentially affected by the approval of the changes described herein and considered the City's staff report regarding the project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OROVILLE AS FOLLOWS:

SECTION 1. The City Council of the City of Oroville adopts and finds as true and correct the aforementioned recitals and incorporates them herein as findings.

SECTION 2. The City Council hereby adopts the amended master schedule of user and regulatory fees by adding an in-lieu fee of \$220 per inch of oak tree requiring mitigation to the Planning Fees.

SECTION 3. California Government Code Section 66017, which outlines procedures for adopting fees, any new or increased development fees adopted by the City Council shall go into effect not sooner than 60 days after adoption. Consequently, the proposed amendment shall have an effective date of March 5, 2024.

PASSED AND ADOPTED by the City Council of the City of Oroville at a regular meeting held on this 2nd day of January 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

David Pittman, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott E. Huber, City Attorney

Kayla Reaster, Assistant City Clerk

Attachment 3



City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street
 Oroville, CA 95965-4897
 (530) 538-2430 FAX (530) 538-2426
www.cityoforoville.org

PLANNING COMMISSION STAFF REPORT

Thursday, November 16, 2023

RE: Consideration of Zoning Code Amendment (ZC) 23-03 amending Section 17.12.060 (Tree Preservation), Section 17.12.065 (Oak Tree Loss Mitigation) and Section 17.48.070 (Tree Removal Permits) of the Oroville Municipal Code (OMC)

SUMMARY: The Planning Commission will consider recommending that the City Council adopt ZC 23-03, amending the City’s oak tree loss mitigation standards, requirements, and applicability as found in Section 17.12.065 of the Oroville Municipal Code (OMC). ZC 23-02 would also amend Section 17.12.060 pertaining to tree preservation requirements and Section 17.48.070 pertaining to the City’s tree removal permit requirements.

RECOMMENDATION: Staff recommends the following actions:

1. **Conduct a Public Hearing** on the proposed Zoning Code Amendment.
2. **Adopt** Resolution No. 2023-20 Recommending that the City Council adopt an ordinance amending Sections 17.12.060, 17.12.065, and 17.48.070 of the OMC

APPLICANT: City of Oroville

LOCATION: City-Wide

GENERAL PLAN: N/A

ZONING: N/A

FLOOD ZONE: N/A

ENVIRONMENTAL DETERMINATION: This proposed Zoning Code Amendment is not subject to the provisions of the California Environmental Quality Act (“CEQA”) pursuant to Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of Environment). These exemptions cover actions taken to assure the maintenance, restoration, enhancement, or protection of natural resources or the environment where the regulatory process involves procedures for the protection of the environment. The proposed amendments to the OMC maintain regulations requiring permits for the removal of trees, including oak trees, meeting specific size criteria outlined in Title 17. Exceptions to permits and mitigation are limited to include routine tree maintenance, or when removal is determined as necessary to protect life, prevent damage to property, or for purposes of fuel management, while minimizing the removal of mature heritage trees. The proposed Zoning Code Amendment also is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

<p>REPORT PREPARED BY:</p> <hr/> <p>Connor Musler, Contract Planner Community Development Department</p>	<p>REVIEWED BY:</p> <hr/> <p>Patrick Piatt, Director Community Development Department</p>
--	---

DISCUSSION

The City currently has three primary municipal code sections pertaining to trees and their preservation and removal. Section 17.12.060 pertains to tree preservation requirements, Section 17.12.065 pertains to oak tree loss mitigation requirements, and Section 17.48.070 pertains to the City’s tree removal permit requirements. Section 17.12.065 “Oak Tree Loss Mitigation” was added to the Oroville Municipal Code in 2015 as part of the larger “Oroville Sustainability Code Updates”; a collection of updates to bring the City’s zoning code and planning documents in compliance with the 2030 General Plan that was adopted on June 2, 2009.

These three code sections are intended to work in coordination with each other, however, they currently lack clear and proper cross-referencing, and, in the case of Section 17.12.065 “Oak Tree Loss Mitigation,” contain burdensome regulations and a lack of detailed exceptions for routine maintenance or the protection of property and public safety.

The intent of this ordinance is to:

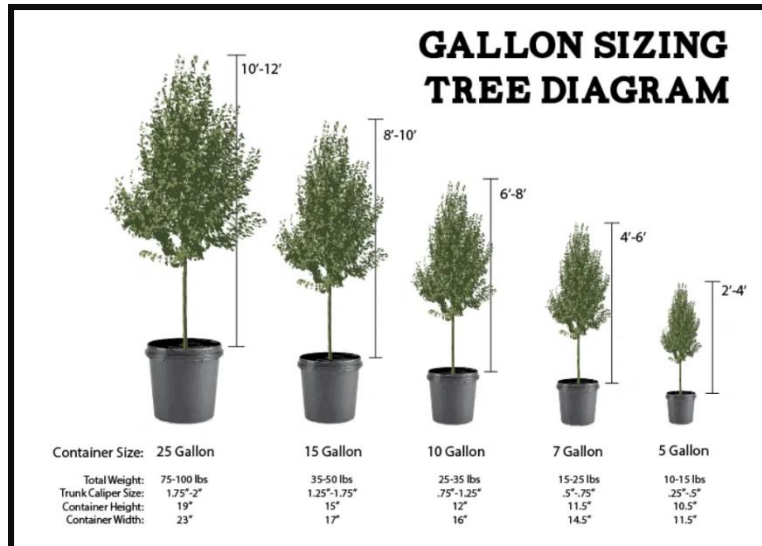
- Simplify the City’s oak tree mitigation requirements; and
- Ensure the City’s codes pertaining to tree removal and permitting requirements do not conflict and are properly referenced within applicable code sections; and
- Balance the ability of property owners to remove trees on their properties while recognizing the key factor that trees have in contributing to Oroville’s beauty and natural environment.

Based on direction received from the City Council, staff began preparing an update to the City’s oak tree mitigation regulations to simplify the overall regulations found within Section 17.12.065 of the OMC. Staff researched the cities of Chico, Rocklin, Roseville, Folsom, Fremont, and the County of Butte to further analyze how each jurisdiction approached tree removal permits and mitigation requirements and compare how the City’s current regulations compared. Staff found that the City’s current regulations were similar to the jurisdictions researched, however, the City’s regulations had a more burdensome replacement ratio of 2 inches of oak tree for every 1 inch removed and a lack of clearly outlined exceptions to the mitigation requirements.

The following changes are proposed:

Amend the Replacement Ratio

Currently, oak trees must be replaced at a 2:1 ratio (2 inches of replacement oak tree for every 1 inch removed). Staff are proposing to simplify the replacement standards to be a 1:1 ratio (1 inch of replacement oak tree for every 1 inch removed), with the replacement trees planted at a minimum size of 15 gallons.



Expand the Scenarios where Mitigation is Exempt

Currently, the only exception to the mitigation requirements of the oak tree ordinance is for “trees removed due to poor tree health or because removal furthers urban forestry or land management practices that support the health of native plant communities, as determined by the director of parks and trees or designee.”

Staff are proposing to expand the list of exceptions to the oak tree ordinance to include:

- Removal of an oak tree that is damaged and removal is necessary to protect persons and property from imminent damage.
- Removal by fire department personnel actively fighting fire.
- When removal is determined as necessary by fire department personnel as part of fuel modification or defensible space requirements, as detailed in a defensible space inspection/report.
- Routing trimming and maintenance which do not damage or result in the death of the tree.
- Removal of a dead, dying, or tree in poor health, as determined by an arborist.

The Planning Commission held a workshop on the proposed oak tree mitigation ordinance update at their September 28, 2023, meeting. Following that workshop, staff proposes two (2) additional mitigation exceptions and one (1) revised exception.

The two (2) new proposed mitigation exceptions are:

- Removal of an interior live oak, unless meeting the criteria for classification as a heritage tree; and
- When removal is determined as necessary by the property owner's insurance provider, as detailed in an insurance report or other formal correspondence, to maintain homeowners' insurance coverage.

The proposed revised exception is:

- Removal of an oak tree on a property developed with a single-family dwelling unit, provided that the following criteria is met:
 - The developed lot is not greater than 20,000 square feet in area and is zoned either RR-20, RR-10, RL, R-1, or R-2.
 - The developed lot is located outside of the Foothill Overlay (F-O) district.
 - If the developed lot is located within the Foothill Overlay (F-O) district, the oak tree(s) proposed to be removed must be located outside of a setback area abutting a street.

These three mitigation exceptions that resulted from the Planning Commission workshop were added with the intent of assisting property owners who wish to create defensible space around their homes and assist owners within the Wildland Urban Interface (WUI) to maintain insurance coverage.

Mitigation Option – In-Lieu Fee

One of the mitigation options allowed by the oak tree ordinance is the payment of an in-lieu fee. The City does not currently have an in-lieu fee established within the City's fee schedule. Based on correspondence from the City's arborist/parks, streets, and trees supervisor, staff proposes an in-lieu fee set at \$220 per inch that needs to be mitigated. This is broken down as \$55-\$60 for a 15-gallon tree, with an average of 2 crew hours (\$75 an hour per crew member) spent to plant the tree, stake it, etc. plus \$10 for miscellaneous expenses such as tree stakes.

Additional changes are proposed to OMC Sections 17.12.060 (Tree Preservation) and 17.48.070 (Tree Removal Permits). Staff are proposing to combine Section 17.12.060 and Section 17.48.070 to minimize cross referencing for two code sections that work in close coordination with each other. Minor updates are also proposed to ensure proper cross-reference between the oak tree mitigation requirements and the tree removal permit section and updates to the department director positions referenced within the code sections.

This proposed ordinance helps implement guiding principles, goals, policies and actions of the City's 2030 General Plan.

General Plan Guiding Principles:

Livability. Ensure that future development enhances the existing character of our city as

a whole, as well as its individual neighborhoods, and has a positive effect on our surroundings and quality of life.

Natural Resources and the Environment. Highlight and protect our unique open spaces, natural resources, underdeveloped areas, specimen trees, riparian zones and wetlands.

General Plan Goals:

Goal CD-1 As the community grows, maintain a coherent and distinctive physical form and structure that reflects Oroville’s unique qualities.

Goal CD-7 Develop Oroville’s major corridors as attractive locations with a diverse mix of land uses and development patterns that include high quality pedestrian-oriented design.

Goal OPS-1 Provide a comprehensive, high-quality system of recreational open space and facilities to maintain and improve the quality of life for Oroville residents.

Goal OPS-5 Maintain and enhance the quality of Oroville’s scenic and visual resources.

Goal OPS-9 Protect areas of significant wildlife habitat and sensitive biological resources to maintain biodiversity among plant and animal species in the City of Oroville and the surrounding area.

General Plan Policies:

P1.1 Require quality architectural and landscaping design as well as durable and efficient materials for all projects.

P2.3 Encourage imaginative design concepts in woodland areas to perpetuate and preserve native trees.

P2.4 Use appropriate landscaping to reduce the effects of surface runoff in developing areas, with an emphasis on native and drought-resistant species, minimization of impervious surfaces, and provisions for recharge.

P2.5 Continue to support and maintain Oroville’s involvement and commitment to the Tree City USA® program.

P2.6 Encourage the planting of trees and other landscape features along Oroville’s corridors to make them interesting, appealing, and inviting.

P1.1 Preserve and develop open space that includes a diversity of passive and active recreational amenities, that is geographically distributed throughout the City, and that is easily accessible by pedestrians and bicyclists.

P3.5 Enhance the wildlife value of the Planning Area’s “urban forest” by landscaping park

and recreation lands with native vegetation and by preserving existing trees and shrubs where they offer significant wildlife value.

P9.5 Require the preparation of a site-specific tree management and preservation report by a certified arborist or urban forester for development proposals on sites that contain significant oak woodlands and related habitat. This report shall include recommendations for the retention of healthy mature trees wherever feasible and promote the concept of oak regeneration corridors within project design.

FISCAL IMPACT

There is minimal fiscal impact associated with the recommended actions.

ATTACHMENTS

- A. Resolution No. 2023-20
- B. Proposed Changes to OMC Section 17.12.060 (Tree Preservation)
- C. Proposed Changed to OMC Section 17.12.065 (Oak Tree Loss Mitigation)
- D. Proposed Changes to OMC Section 17.48.070 (Tree Removal Permits)

RESOLUTION NO. P2023-20

A RESOLUTION OF THE OROVILLE PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT ZONING CODE AMENDMENT (ZC 23-03), THE PROPOSED AMENDMENTS TO THE OROVILLE MUNICIPAL CODE SECTION 17.12.060 “TREE PRESERVATION”, SECTION 17.12.065 “OAK TREE LOSS MITIGATION”, AND SECTION 17.48.070 “TREE REMOVAL PERMITS”

WHEREAS, the Oroville 2030 General Plan sets forth goals, objectives, and policies to protect, manage, and expand urban forestry and native vegetation while also considering public safety; and

WHEREAS, the City of Oroville currently requires tree removal permits to protect the City’s mature trees; and

WHEREAS, a tree removal permit must be obtained prior to the removal of a protected tree, including native oak trees; and

WHEREAS, OMC Section 17.12.065 establishes regulations to protect native oak trees and outlines requirements for mitigation when removed; and

WHEREAS, City Staff identified challenges in implementing the current oak tree mitigation code as written and received direction from the City Council to identify opportunities to address those challenges; and

WHEREAS, the proposed amendments to OMC Section 17.12.065 include expanding the exceptions to the permit and mitigation requirements and simplifying the mitigation replacement ratio; and

WHEREAS, amendments are also proposed to Sections 17.12.060 and 17.48.070; and

WHEREAS, at a duly noticed public hearing, the Planning Commission considered the comments and concerns of public agencies, property owners, and members of the public who are potentially affected by the approval of the code changes described herein and considered the City’s staff report regarding the project.

NOW, THEREFORE, BE IT RESOLVED BY THE OROVILLE PLANNING COMMISSION AS FOLLOWS:

SECTION 1. The Planning Commission determines:

- A. That the proposed amendments are consistent with the General Plan; and
- B. The proposed amendments are consistent with other applicable provisions of the Municipal Code and compatible with the uses authorized in the applicable zoning districts for which the revisions are proposed.

SECTION 2. The Planning Commission finds that Zoning Code Amendment ZC23-03 is not subject to the provisions of the California Environmental Quality Act (“CEQA”) pursuant to Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of Environment). These exemptions cover actions taken to assure the maintenance, restoration, enhancement, or protection of natural resources or the environment where the regulatory process involves procedures for the protection of the environment. The proposed amendments to the OMC maintain regulations requiring permits for the removal of trees, including oak trees, meeting specific size criteria outlined in Title 17. Exceptions to permits and mitigation are limited to include routine tree maintenance, or when removal is determined as necessary to protect life, prevent damage to property, or for purposes of fuel management, while minimizing the removal of mature heritage trees. The proposed Zoning Code Amendment also is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 3. The Planning Commission hereby recommends that the City Council adopt an ordinance amending the Oroville Municipal Code as set forth in Attachment B amending Section 17.12.060 (Tree Preservation), Attachment C amending Section 17.12.065 (Oak Tree Loss Mitigation), and Attachment D amending Section 17.48.070 (Tree Removal Permits).

SECTION 4. Furthermore, the Planning Commission hereby recommends that the City Council adopt an in-lieu fee of \$220 per inch of oak tree requiring mitigation.

PASSED AND ADOPTED by the Planning Commission of the City of Oroville at a special meeting on November 16, 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVE:

Kayla Reaster, Assistant City Clerk

Carl Durling, Chairperson

SECTION 17-12.060**TREE PRESERVATION**~~17-12.060 — Tree Preservation~~~~A. — Applicability.~~

- ~~1. — The requirements of this section shall apply to any protected tree.~~
- ~~2. — A protected tree is defined as:
 - ~~a. — Any tree on public property; or~~
 - ~~b. — Any tree on private property that has a trunk diameter of at least 24 inches at 54 inches above grade.~~~~
- ~~3. — **Permit Required.** The removal of any protected tree requires approval of a tree removal permit, as provided in Section 17.48.070.~~
- ~~4.1. **Removal Without a Permit.** If personal injury or property damage is imminently threatened, the fire chief, the chief of police or the zoning administrator may authorize the removal of a protected tree without obtaining the required permit. The removal shall be reported to the zoning administrator within 5 business days. (Ord. 1749 § 4)~~

DRAFT

SECTION 17-12.065**OAK TREE LOSS MITIGATION**

17-12.065 Oak Tree Loss Mitigation

A. **Purpose.**

Oroville's native oak trees provide wildlife habitat, control erosion, maintain water flow and quality, moderate temperatures, improve air quality, and contribute to the aesthetic character of the area. The purpose of this section is to preserve Oroville's valuable native oak trees by protecting them during grading and construction, minimizing their removal, replacing them when removal is approved, and monitoring them to ensure that they are maintained.

B. **Applicability.** The requirements of this section apply to any native oak tree on public or private land with the following minimum diameter at breast height (dbh) (i.e., 4.5 feet from the ground):

1. Single main trunk: 6 inches.
2. Multiple trunks (in aggregate): 10 inches.

"Native oak tree" means an oak tree that is native to Butte County's natural oak communities, including valley oak, black oak, blue oak, ~~interior live oak~~, and canyon oak. Interior live oak, while native to Butte County, is not included in this definition and their removal is not subject to the requirements of this section unless meeting the criteria for classification as a heritage tree.

C. **Permits Required.**

1. **Tree Removal.** The city requires a tree removal permit in accordance with Section 17.48.070 to remove any oak tree that meets the applicability criteria above in subsection B (Applicability). The property owner must file a tree survey and an oak tree preservation plan with the community development department before the city will issue a permit. The plan shall describe all efforts to preserve trees to the extent feasible, replace trees that are removed, and maintain replacement trees. In addition, the plan shall address replacing any replacement trees that do not survive.
2. **Grading.** Grading projects shall retain oak trees wherever possible. To receive a grading permit, applicants must address oak tree preservation in their grading plan by identifying methods to:
 - a. Identify trees to be retained, through flagging or other obvious marking methods, prior to any grading.
 - b. Avoid compaction of the root zone and mechanical damage to trunks and limbs by installing temporary fencing along the outermost edge of the dripline of each retained tree or group of trees.
 - c. Avoid trenching within driplines of retained trees. Any required utility line poles within the dripline should be installed by boring or drilling through the soil.
3. **Heritage Trees.**
 - a. Grading, filling, trenching, paving, irrigation, and landscaping plans shall avoid the removal of or damage to the health of a heritage tree.

- b. A heritage tree may only be removed when approved as appropriate by a certified arborist, and upon receiving a tree removal permit in accordance with subsection (C)(1).

D. **Mitigation Options.** An applicant who has received a tree removal permit shall mitigate the removal by completing one or a combination of the following options, as well as paying a monitoring fee per tree as set by the city council.

1. **On-Site Replacement.** Where physically feasible, a tree removed under a tree removal permit shall be replaced on the same property, in accordance with the standards in subsection F (Replacement Standards).
2. **In-Lieu Fee.** When replacing a tree on site is not feasible, an applicant granted a tree removal permit may pay an in-lieu fee as set by the city council.
3. **Off-Site Replacement.** When replacing a tree on site is not feasible, an applicant granted a tree removal permit may plant replacement trees off site if:
 - a. The off-site location is permanently protected under a conservation easement that includes a maintenance plan that meets the requirements in subsection F (Replacement Standards).
 - b. The off-site location is appropriate for oak tree plantings, as determined by the director of ~~parcs and trees-public works~~ or designee.
 - c. The off-site location is sufficient to plant and maintain replacement trees in accordance with the standards in subsection F (Replacement Standards).

~~E.—Exceptions to **Permits and Mitigation Requirements.** Mitigation is not required for trees removed due to poor tree health or because removal furthers urban forestry or land management practices that support the health of native plant communities, as determined by the director of parks and trees or designee. A tree removal permit or mitigation shall not be required for the following circumstances:~~

- ~~1. When an oak tree is damaged and the city administrator, director of public works, director of community development, public safety personnel, code enforcement officer, or their designees has determined that its immediate removal is necessary to protect persons from imminent personal injury or to prevent imminent and substantial damage to property.~~
- ~~2. Removal of an interior live oak, unless meeting the criteria for classification as a heritage tree.~~
- ~~3. When removal is determined to be necessary by fire department personnel actively engaged in fighting a fire.~~
- ~~4. When removal is determined to be necessary by fire department personnel to comply with fuel modification requirements or defensible space requirements, as detailed in a defensible space inspection/report.~~
- ~~5. When removal is determined as necessary by the property owner's insurance provider, as detailed in an insurance report or other formal correspondence, to maintain homeowners' insurance coverage.~~

6. Routine trimming, pruning, or maintenance which does not cause damage or death of a tree.
7. Removal of an oak tree that is dead, dying, or in poor health as determined by a certified arborist.
8. Removal of an oak tree on a property developed with a single-family dwelling unit, provided that the following criteria is met:
 - a. The developed lot is not greater than 4020,000 square feet in area and is zoned either RR-20, RR-10, RL, R-1, or R-2.
 - b. The developed lot is located outside of the Foothill Overlay (F-O) district.
 - (1) If the developed lot is located within the Foothill Overlay (F-O) district, the oak tree(s) proposed to be removed must be located within the rear or side yard not outside of a setback area abutting a street.

F.

G.E. Replacement Standards. Replacement trees must meet the following standards.

1. **Replacement Ratio.** Each inch in dbh of oak removed shall be replaced by 2.1 inches of native oaks (1:1 ratio), using trees planted at a minimum size of one-15 gallons. ~~For example, a 6-inch dbh tree may be replaced by four 1.3-inch trees or 2.12 three-one-inch trees.~~
2. **Timeframe.** ~~A replacement tree shall be planted within 90 days of the removal of the original tree. The schedule for planting of the replacement trees shall be subject to approval by the review authority as detailed in Section 17.48.070(C)(3).~~
3. **Maintenance.** The applicant is responsible for protecting the health of a replacement tree. Replacement trees shall be irrigated in accordance with Oroville Municipal Code Section 17.12.050 (Landscaping standards). A replacement tree that dies within 5 years shall be replaced on a one-to-one basis.
4. **Monitoring.** The applicant shall monitor the replacement tree and report its health status to the community development department annually, or upon request, for 5 years following planting.
5. **Damage.** Purposeful damaging or neglect of a replacement tree will invalidate the tree removal permit.

H.F. Oak Tree Maintenance Fund. The city shall place in-lieu tree-removal fees in an oak tree maintenance fund to be expended only for the following:

1. **Planting New Trees.** Planting oak trees on public and private property within Oroville. These expenditures may include purchasing and planting trees, preparing the land for planting, and installing irrigation improvements. Private property owners may apply to have an oak tree planted on their property at public expense, provided the expense does not exceed the in-lieu fee amount.
2. **Maintaining Existing Trees.** Caring for and preserving existing oak trees on public property or easements.

I.G. **Monitoring.** The community development department shall prepare an annual report that addresses the following topics:

1. **Tree Inventory.** The report shall inventory all replacement trees, including their type and health status, as reported by an applicant.
2. **Fund Accounting.** The report shall account for the balance in the oak tree mitigation fund and summarize the use to which the fund was put during the preceding year.

J.H. **Fines.** The city may issue a fine for the destruction of an oak tree in violation of this section. Fines may be as high as the cost to replace and maintain up to 3 times the number of trees required by this section. The city shall deposit funds received from fines in the oak tree mitigation fund. (Ord. 1819 § 3, 2017).

SECTION 17-48.070**TREE REMOVAL PERMITS**

17-48.070 Tree Removal Permits

A. **Purpose.** The purpose of requiring tree removal permits is to preserve the city's mature trees by placing appropriate restrictions on their removal, while also allowing the removal of trees when necessary to protect the health, safety and welfare of the public.

B. **Applicability.** The removal of any protected tree requires approval of a tree removal permit. The requirements of this section shall apply to any protected tree.

1. A protected tree is defined as:

a. Any tree on public property; or

b. Any tree on private property that has a trunk diameter of at least 24 inches at 54 inches above grade.

A.c. An oak tree meeting the criteria of Section 17.12.065.

B.C. **Application.**

1. Application for a tree removal permit shall be made in a form prescribed by the zoning administrator and accompanied by a fee established by resolution of the city council. Only the owner of the site or their authorized agent may apply for a tree removal permit.
2. The application for a tree removal permit shall include a map depicting the location, size and type of all trees within or immediately adjacent to the subject property. The map shall also depict any permanent buildings or structures on the subject property.
3. The review authority for a tree removal permit shall be determined as follows:
 - a. For trees on public property, unless the removal is associated with a proposed development that requires planning commission approval, the director of parks and trees public works or designee shall be responsible for issuing tree removal permits.
 - b. For trees on private property, unless the removal is associated with a proposed development that requires planning commission approval, the zoning administrator shall be responsible for issuing tree removal permits.
 - c. For any proposed development that requires planning commission approval, the planning commission shall review the trees being removed, and approval of the project shall also be approval to remove all specified trees.

B.D. **Required Findings.**

1. A tree removal permit shall not be issued unless the review authority finds, based on substantial evidence, that the owner has demonstrated that the removal is necessary in order to accomplish any one of the following objectives:
 - a. To ensure public safety as it relates to the health of the tree, potential hazard to life or property, and proximity to existing or proposed structures, and interference with utilities or sewers.

- b. To allow reasonable enjoyment of the property, including sunlight access and the right to develop the property.
- c. To pursue good, professional practices of forestry or landscape design.

2. Any action regarding the issuance of a tree removal permit may be appealed, as provided in Section 17.56.100. Subject trees shall not be removed prior to the completion of the required appeal period. (Ord. 1749 § 4; Ord. 1762 § 12)

2.E. **Removal Without a Permit.** If personal injury or property damage is imminently threatened, the city administrator, director of public works, director of community development, public safety personnel, code enforcement officer, or their designees may authorize the removal of a protected tree without obtaining the required permit. The removal shall be reported to the zoning administrator within 5 business days. (Ord. 1749 § 4).

Attachment 4

Connor Musler

From: Taylor Nilsson <Taylorn@buttefiresafe.net>
Sent: Sunday, November 26, 2023 10:40 AM
To: Warren Jensen <Warren@garybess.com>
Subject: RE: Contact information

Hi Warren,

I apologize, I do not know why the comments did not send when I replied to this. Hopefully it is not too late for another meeting to bring the comments from Kieran forward.

- The replacement ratio is still too high. So, for a 6-inch DBH oak tree that is removed, then six 15-gallon trees shall be replanted. This will cause an overstocking of trees (too many trees per acre) and increase overall Wildland/Urban fuel loading per acre. The alternative is offsite planting, which sounds like a feel-good approach, at first. However, the problem in this state is that we have too many trees per acre within the wildlands and in some instances in urban settings. Switching to a one tree removed/one tree replaced ratio may be a better alternative.



- “When removal is determined as necessary by fire department personnel as part of fuel modification or defensible space requirements, as detailed in a defensible space inspection/report.”

- Oroville Fire Department is now run by CAL FIRE. If they have the capacity to perform these inspection reports to trigger fuels modification, then the task of carrying out the fuel reduction for defensible space is placed squarely on the landowner/homeowner. This is reactive regulation. Suggested proactive regulation (exception) is listed below.

- Removal of hazardous understory trees to fulfill defensible space requirements and improve overall fire resiliency of residual trees within Wildland Urban Interface (WUI) area.
 - Removal operations shall be linked to a valid Community Wildfire Protection Plan (CWPP) for the City of Oroville.
 - Removal operations can be funded and administered by the Butte County Fire Safe Council (BCFSC) and/or Butte County Resource Conservation District (BCRCD).
 - Removal operations shall be administered by a Ca. Registered Professional Forester and/or CAL FIRE Resource Personnel.

One of the main concerns is who the responsibility falls upon to fulfill the defensible space requirements. Allowing the removal to be tied to a local non-profit such as the FSC or BCRCD opens up a host of opportunities.

We will work on scheduling a tour for January.

Thank you



Taylor Nilsson
 Executive Director
Mobile: 530-966-1620
Office: 530-877-0984
 6569 Clark Rd, Paradise, CA 95969
buttefiresafe.net
 Mail to: PO Box 699 Paradise CA 95967

Attachment 5

SECTION 17-12.060**TREE PRESERVATION**~~17-12.060 — Tree Preservation~~~~A. — Applicability.~~

- ~~1. — The requirements of this section shall apply to any protected tree.~~
- ~~2. — A protected tree is defined as:
 - ~~a. — Any tree on public property; or~~
 - ~~b. — Any tree on private property that has a trunk diameter of at least 24 inches at 54 inches above grade.~~~~
- ~~3. — **Permit Required.** The removal of any protected tree requires approval of a tree removal permit, as provided in Section 17.48.070.~~
- ~~4.1. **Removal Without a Permit.** If personal injury or property damage is imminently threatened, the fire chief, the chief of police or the zoning administrator may authorize the removal of a protected tree without obtaining the required permit. The removal shall be reported to the zoning administrator within 5 business days. (Ord. 1749 § 4)~~

SECTION 17-12.065**OAK TREE LOSS MITIGATION**

17-12.065 Oak Tree Loss Mitigation

A. **Purpose.**

Oroville’s native oak trees provide wildlife habitat, control erosion, maintain water flow and quality, moderate temperatures, improve air quality, and contribute to the aesthetic character of the area. The purpose of this section is to preserve Oroville’s valuable native oak trees by protecting them during grading and construction, minimizing their removal, replacing them when removal is approved, and monitoring them to ensure that they are maintained.

B. **Applicability.** The requirements of this section apply to any native oak tree on public or private land with the following minimum diameter at breast height (dbh) (i.e., 4.5 feet from the ground):

1. Single main trunk: 6 inches.
2. Multiple trunks (in aggregate): 10 inches.

“Native oak tree” means an oak tree that is native to Butte County’s natural oak communities, including valley oak, black oak, blue oak, ~~interior live oak~~, and canyon oak. Interior live oak, while native to Butte County, is not included in this definition and their removal is not subject to the requirements of this section unless meeting the criteria for classification as a heritage tree.

C. **Permits Required.**

1. **Tree Removal.** The city requires a tree removal permit in accordance with Section 17.48.070 to remove any oak tree that meets the applicability criteria above in subsection B (Applicability). The property owner must file a tree survey and an oak tree preservation plan with the community development department before the city will issue a permit. The plan shall describe all efforts to preserve trees to the extent feasible, replace trees that are removed, and maintain replacement trees. In addition, the plan shall address replacing any replacement trees that do not survive.
2. **Grading.** Grading projects shall retain oak trees wherever possible. To receive a grading permit, applicants must address oak tree preservation in their grading plan by identifying methods to:
 - a. Identify trees to be retained, through flagging or other obvious marking methods, prior to any grading.
 - b. Avoid compaction of the root zone and mechanical damage to trunks and limbs by installing temporary fencing along the outermost edge of the dripline of each retained tree or group of trees.
 - c. Avoid trenching within driplines of retained trees. Any required utility line poles within the dripline should be installed by boring or drilling through the soil.
3. **Heritage Trees.**
 - a. Grading, filling, trenching, paving, irrigation, and landscaping plans shall avoid the removal of or damage to the health of a heritage tree.

- b. A heritage tree may only be removed when approved as appropriate by a certified arborist, and upon receiving a tree removal permit in accordance with subsection (C)(1).

D. **Mitigation Options.** An applicant who has received a tree removal permit shall mitigate the removal by completing one or a combination of the following options, as well as paying a monitoring fee per tree as set by the city council.

1. **On-Site Replacement.** Where physically feasible, a tree removed under a tree removal permit shall be replaced on the same property, in accordance with the standards in subsection F (Replacement Standards).
2. **In-Lieu Fee.** When replacing a tree on site is not feasible, an applicant granted a tree removal permit may pay an in-lieu fee as set by the city council.
3. **Off-Site Replacement.** When replacing a tree on site is not feasible, an applicant granted a tree removal permit may plant replacement trees off site if:
 - a. The off-site location is permanently protected under a conservation easement that includes a maintenance plan that meets the requirements in subsection F (Replacement Standards).
 - b. The off-site location is appropriate for oak tree plantings, as determined by the director of ~~parcs and trees-public works~~ or designee.
 - c. The off-site location is sufficient to plant and maintain replacement trees in accordance with the standards in subsection F (Replacement Standards).

~~E.—Exceptions to **Permits and Mitigation Requirements.** Mitigation is not required for trees removed due to poor tree health or because removal furthers urban forestry or land management practices that support the health of native plant communities, as determined by the director of parks and trees or designee. A tree removal permit or mitigation shall not be required for the following circumstances:~~

- ~~1. When an oak tree is damaged and the city administrator, director of public works, director of community development, public safety personnel, code enforcement officer, or their designees has determined that its immediate removal is necessary to protect persons from imminent personal injury or to prevent imminent and substantial damage to property.~~
- ~~2. Removal of an interior live oak, unless meeting the criteria for classification as a heritage tree.~~
- ~~3. When removal is determined to be necessary by fire department personnel actively engaged in fighting a fire.~~
- ~~4. When removal is determined to be necessary by fire department personnel to comply with fuel modification requirements or defensible space requirements, as detailed in a defensible space inspection/report.~~
- ~~5. When removal is determined as necessary by the property owner's insurance provider, as detailed in an insurance report or other formal correspondence, to maintain homeowners' insurance coverage.~~

6. Routine trimming, pruning, or maintenance which does not cause damage or death of a tree.
7. Removal of an oak tree that is dead, dying, or in poor health as determined by a certified arborist.
8. Removal of an oak tree on a property developed with a single-family dwelling unit, provided that the following criteria is met:
 - a. The developed lot is not greater than 4020,000 square feet in area and is zoned either RR-20, RR-10, RL, R-1, or R-2.
 - b. The developed lot is located outside of the Foothill Overlay (F-O) district.
 - (1) If the developed lot is located within the Foothill Overlay (F-O) district, the oak tree(s) proposed to be removed must be located within the rear or side yard not outside of a setback area abutting a street.

F.

G.E. Replacement Standards. Replacement trees must meet the following standards.

1. **Replacement Ratio.** Each inch in dbh of oak removed shall be replaced by 21 inches of native oaks (1:1 ratio), using trees planted at a minimum size of one-15 gallons. For example, a 6-inch dbh tree may be replaced by four 13-inch trees or 212 threcone-inch trees.
2. **Timeframe.** A replacement tree shall be planted within 90 days of the removal of the original tree. The schedule for planting of the replacement trees shall be subject to approval by the review authority as detailed in Section 17.48.070(C)(3).
3. **Maintenance.** The applicant is responsible for protecting the health of a replacement tree. Replacement trees shall be irrigated in accordance with Oroville Municipal Code Section 17.12.050 (Landscaping standards). A replacement tree that dies within 5 years shall be replaced on a one-to-one basis.
4. **Monitoring.** The applicant shall monitor the replacement tree and report its health status to the community development department annually, or upon request, for 5 years following planting.
5. **Damage.** Purposeful damaging or neglect of a replacement tree will invalidate the tree removal permit.

H.F. Oak Tree Maintenance Fund. The city shall place in-lieu tree-removal fees in an oak tree maintenance fund to be expended only for the following:

1. **Planting New Trees.** Planting oak trees on public and private property within Oroville. These expenditures may include purchasing and planting trees, preparing the land for planting, and installing irrigation improvements. Private property owners may apply to have an oak tree planted on their property at public expense, provided the expense does not exceed the in-lieu fee amount.
2. **Maintaining Existing Trees.** Caring for and preserving existing oak trees on public property or easements.

I.G. **Monitoring.** The community development department shall prepare an annual report that addresses the following topics:

1. **Tree Inventory.** The report shall inventory all replacement trees, including their type and health status, as reported by an applicant.
2. **Fund Accounting.** The report shall account for the balance in the oak tree mitigation fund and summarize the use to which the fund was put during the preceding year.

J.H. **Fines.** The city may issue a fine for the destruction of an oak tree in violation of this section. Fines may be as high as the cost to replace and maintain up to 3 times the number of trees required by this section. The city shall deposit funds received from fines in the oak tree mitigation fund. (Ord. 1819 § 3, 2017).

SECTION 17-48.070**TREE REMOVAL PERMITS**

17-48.070 Tree Removal Permits

A. **Purpose.** The purpose of requiring tree removal permits is to preserve the city's mature trees by placing appropriate restrictions on their removal, while also allowing the removal of trees when necessary to protect the health, safety and welfare of the public.

B. **Applicability.** The removal of any protected tree requires approval of a tree removal permit. The requirements of this section shall apply to any protected tree.

1. A protected tree is defined as:

a. Any tree on public property; or

b. Any tree on private property that has a trunk diameter of at least 24 inches at 54 inches above grade.

A.c. An oak tree meeting the criteria of Section 17.12.065.

B.C. **Application.**

1. Application for a tree removal permit shall be made in a form prescribed by the zoning administrator and accompanied by a fee established by resolution of the city council. Only the owner of the site or their authorized agent may apply for a tree removal permit.
2. The application for a tree removal permit shall include a map depicting the location, size and type of all trees within or immediately adjacent to the subject property. The map shall also depict any permanent buildings or structures on the subject property.
3. The review authority for a tree removal permit shall be determined as follows:
 - a. For trees on public property, unless the removal is associated with a proposed development that requires planning commission approval, the director of ~~parks and trees~~ public works or designee shall be responsible for issuing tree removal permits.
 - b. For trees on private property, unless the removal is associated with a proposed development that requires planning commission approval, the zoning administrator shall be responsible for issuing tree removal permits.
 - c. For any proposed development that requires planning commission approval, the planning commission shall review the trees being removed, and approval of the project shall also be approval to remove all specified trees.

C.D. **Required Findings.**

1. A tree removal permit shall not be issued unless the review authority finds, based on substantial evidence, that the owner has demonstrated that the removal is necessary in order to accomplish any one of the following objectives:
 - a. To ensure public safety as it relates to the health of the tree, potential hazard to life or property, and proximity to existing or proposed structures, and interference with utilities or sewers.

- b. To allow reasonable enjoyment of the property, including sunlight access and the right to develop the property.
- c. To pursue good, professional practices of forestry or landscape design.

2. Any action regarding the issuance of a tree removal permit may be appealed, as provided in Section 17.56.100. Subject trees shall not be removed prior to the completion of the required appeal period. (Ord. 1749 § 4; Ord. 1762 § 12)

2.E. **Removal Without a Permit. If personal injury or property damage is imminently threatened, the city administrator, director of public works, director of community development, public safety personnel, code enforcement officer, or their designees may authorize the removal of a protected tree without obtaining the required permit. The removal shall be reported to the zoning administrator within 5 business days. (Ord. 1749 § 4).**

DATE: December 20, 2023

TO: STATE, CITY AND LOCAL OFFICIALS

NOTICE OF PACIFIC GAS AND ELECTRIC COMPANY’S REQUEST TO INCREASE RATES IN ITS 2023 WILDFIRE MITIGATION AND CATASTROPHIC EVENTS APPLICATION (A.23-12-001)

Acronyms you need to know

PG&E: Pacific Gas and Electric Company

CPUC: California Public Utilities Commission

WMCE: Wildfire Mitigation and Catastrophic Events

Why am I receiving this notice?

On December 1, 2023, PG&E filed its 2023 WMCE application with the CPUC. The application requests \$2.1 billion to recover costs related to wildfire mitigation activities.

The application proposes 85% (\$1.5 billion) of the total cost to be recovered over 12 months beginning March 2024, for electric distribution only. The remaining 15% (\$399 million) would be recovered through 2026.

Why is PG&E requesting this rate increase?

Costs in this application are related to winter storm response in 2022 and 2023 and other declared catastrophic events. Also included in this application are costs related to Public Safety Power Shutoffs (PSPS) planning, Advanced Fire Modeling and Vegetation Management. In addition, this application includes temporary generation to support customers during PSPS events and other customer care and climate related activities.

How could this affect my monthly electric rates?

Many customers receive bundled electric service from PG&E, meaning they receive electric generation, transmission and distribution services. PG&E is proposing to recover electric costs over a three-year period **beginning March 2024**.

A bill insert with detailed rate impact information is being sent directly to customers.

In the first year, the bill for a typical residential customer using 500 kWh per month would increase from \$190.84 to \$204.49, or 7.2% compared to current bills. In the second year, the bill for a typical residential customer would increase \$2.95 or 1.5% compared to current bills. In the third year, the bill for a typical residential customer would increase \$0.58 or 0.3% compared to current bills.

Direct Access (DA) and Community Choice Aggregation (CCA) customers receive electric transmission and distribution services and select commission-ordered services from PG&E. If this application is approved, on average, rates for services provided by PG&E to these customers would increase by 12.0% compared to current rates in the first year, 2.6% compared to current rates in the second year and 0.5% compared to current rates in the third year. DA providers and CCAs set their own generation rates. Check with your DA provider or CCA to learn how this would impact your overall bill.

Another category of nonbundled customers is other Departing Load. These customers do not receive electric generation, transmission or distribution services from PG&E. On average, these customers would see an increase of 3.7% compared to current rates in the first year, 0.8% compared to current rates in the second year, and 0.1% compared to current rates in the third year.

Actual impacts will vary depending on usage and are subject to CPUC regulatory approval.

How could this affect my monthly gas rates?

Bundled gas customers receive transmission, distribution and procurement services from PG&E. PG&E is proposing to recover gas costs over a two-year period **beginning March 2025**.

Based on rates currently in effect, in the first year the bill for a typical residential customer averaging 33 therms per month would increase from \$69.35 to \$69.56, or 0.3%. In the second year, the bill for a typical residential customer would increase \$0.02 or 0.03% compared to current bills.

Actual impacts will vary depending on usage and are subject to CPUC regulatory approval.

How does the rest of this process work?

This application will be assigned to a CPUC Administrative Law Judge who will consider proposals and evidence presented during the formal hearing process. The Administrative Law Judge will issue a proposed decision that may adopt PG&E's application, modify it or deny it. Any CPUC Commissioner may sponsor an alternate decision with a different outcome. The proposed decision, and any alternate decisions, will be discussed and voted upon by the CPUC Commissioners at a public CPUC Voting Meeting.

Parties to the proceeding may review PG&E's application, including the Public Advocates Office. The Public Advocates Office is an independent consumer advocate within the CPUC that represents customers to obtain the lowest possible rate for service consistent with reliable and safe service levels. For more information about the Public Advocates Office, please call **1-415-703-1584**, email: **PublicAdvocatesOffice@cpuc.ca.gov** or visit **PublicAdvocates.cpuc.ca.gov**.

Where can I get more information?

CONTACT PG&E

If you have questions about PG&E's filing, please contact PG&E at **1-800-743-5000**. For TTY, call **1-800-652-4712**. Para obtener más información sobre cómo este cambio podría afectar su pago mensual, llame al **1-800-660-6789** • 詳情請致電 **1-800-893-9555**.

If you would like a copy of the filing and exhibits, please write to the address below:

Pacific Gas and Electric Company
2023 WMCE (A.23-12-001)
P.O. Box 1018
Oakland, CA 94604-1018

CONTACT CPUC

Please visit **apps.cpuc.ca.gov/c/ A2312001** to submit a comment about this proceeding on the CPUC Docket Card. Here you can also view documents and other public comments related to this proceeding.

If you have questions about CPUC processes, you may contact the CPUC's Public Advisor's Office at:

Email: Public.Advisor@cpuc.ca.gov

Mail: CPUC
Public Advisor's Office
505 Van Ness Avenue
San Francisco, CA 94102

Call: 1-866-849-8390 (toll-free) or 1-415-703-2074

Please reference **PG&E's 2023 WMCE (A.23-12-001)** in any communications you have with the CPUC regarding this matter.