



Legislation Text

File #: 21-0343, **Version:** 1

Planning and Building Department, Economic Development Division, recommending the Board adopt Urgency Ordinance **5142 5139** to approve a term extension for Urgency Ordinance 5126, extending the term to be effective until rescinded by the Board or December 31, 2021, whichever occurs first. This Urgency Ordinance adopted Amendments to the Zoning Ordinance to temporarily ease restrictions on outdoor dining and outdoor retail sales areas, and implement a County of El Dorado Temporary Outdoor Dining and Retail Sales Program.

FUNDING: N/A

DISCUSSION / BACKGROUND

During the COVID-19 pandemic, Governor Newsom has issued numerous executive orders related to reducing the spread of COVID-19, including the state mandate for the use of face masks in public, closure of indoor seating at restaurants, closures of particular businesses, and social distancing.

The COVID-19 pandemic and the corresponding executive orders are still directly affecting retail operations within the County as social distancing recommendations for the creation of physical space between individuals significantly reduces the ability of retail businesses to operate at financially viable levels. The executive orders and social distancing measures have also resulted in reduced business operations within the County, a loss of revenue, lost employment, and other various impacts to the livelihood of County residents.

On July 28, 2020 (File No. 20-1003, Item No. 22), the Board approved Urgency Ordinance 5126, adopting amendments to the Zoning Ordinance thereby temporarily easing restrictions on outdoor dining and outdoor retail sales areas. These changes, along with the County of El Dorado Temporary Outdoor Dining and Retail Sales Program, have been established to ensure restaurants and retailers have the greatest ability to operate successfully through the recovery process. Restaurants and retail establishments with access to private sidewalks or private parking may utilize these areas for dining activities in accordance with guidelines published by California Department of Public Health [<https://www.cdph.ca.gov/>](https://www.cdph.ca.gov/).

Upon adoption of Urgency Ordinance 5126, the following sections were amended and a summary of those changes for each are below.

Urgency Ordinance Provisions

This Urgency Ordinance has temporarily eased regulations specified in the Zoning Ordinance pertaining to temporary outdoor retail sales and outdoor dining areas and has enacted the County of El Dorado Temporary Outdoor Dining and Retail Sales Program for the duration of the Urgency Ordinance. This program includes social distancing requirements and other site design standards to ensure that outdoor dining and sales areas continue to function in a safe manner while the County recovers from the COVID-19 pandemic. Additionally, it has also temporarily eased provisions of the Zoning Ordinance pertaining to restrictions for off-street parking and temporary signage.

Outdoor Retail Sales and Outdoor Dining

Outdoor retail sales have been broken into both temporary and permanent classifications. While permanent outdoor retail sales areas such as for a lumber yard or nursery are not affected by this Urgency Ordinance, the Zoning Ordinance does specify that outdoor seating at a restaurant must comply with the standards identified for permanent outdoor retail sales. Therefore, in section 130.40.220B (Outdoor Retail Sales) of the Zoning Ordinance, minor text changes were approved on an interim and uncodified basis that implemented the County of El Dorado Temporary Outdoor Dining and Retail Sales Program for outdoor seating areas.

Temporary Outdoor Retail Sales are currently allowed in commercial and industrial zones with issuance of an Administrative Use Permit (AUP) and/or Temporary Use Permit (TUP). To ease restrictions for outdoor sales in these zones, this Urgency Ordinance temporarily removed the need to obtain either of the above permits, and instead requires compliance with the County of El Dorado Temporary Outdoor Dining and Retail Sales Program. Therefore, not only would an Administrative Permit not be required for the duration of this Urgency Ordinance, but temporary outdoor retail sales would be allowed to remain open for the duration of this Urgency Ordinance and not be subject to the Temporary Use Permit time limits specified in the Zoning Ordinance.

Restaurants are allowed in many zones either by right and/or with issuance of a Conditional Use Permit (CUP). With the adoption of the Urgency Ordinance, outdoor dining areas have been subject to the conditions of a CUP and/or the development standards located in the Permanent Retail Sales section of the Zoning Ordinance. The only change to outdoor dining areas as a result of the Urgency Ordinance eased restrictions by implementing the County of El Dorado Temporary Outdoor Ordinance Program for the duration of this Urgency Ordinance.

Parking

Off-street parking requirements are specified in Table 130.35.030.1 of the Zoning Ordinance and this Urgency Ordinance did not change the required off-street parking calculation for retail and/or restaurant uses. However, this Urgency Ordinance did implement, on a temporary basis, the County of El Dorado Temporary Outdoor Dining and Retail Sales Program which allows for up to 50% of the required parking spaces to be converted to outdoor dining space or retail space. The 50% reduction in parking spaces is intended to offset the reduction of patrons allowed inside due to ongoing social distancing requirements.

Temporary Signs

Temporary sign regulations are stipulated in Section 130.36.050 of the Zoning Ordinance, including how many and what type of temporary signs are allowed for each use type. While this Urgency Ordinance did not change the number, size, or type of allowed temporary signs, it does allow for temporary signs to be used during the duration of this Urgency Ordinance and not subject to the time limits specified in the Zoning Ordinance (e.g. 90 cumulative days in a calendar year).

Duration

This Urgency Ordinance was originally intended to be in effect from the date of approval by the Board until April 1, 2021. Due the ongoing circumstances surrounding the COVID-19 and its impacts on the County, business, and residents, staff is recommending that the Board approve an extension of this Urgency Ordinance 5126, extending the term to be effective until rescinded by the Board or December 31, 2021, whichever occurs first. Staff will continue to monitor the impacts of this Urgency

Ordinances on the County, businesses, and residents.

Environmental Clearance

This Urgency Ordinance was determined to be exempt from the California Environmental Quality Act (CEQA), as it would result in minor alterations to existing facilities and does not have the potential for causing a significant effect on the environment in accordance with CEQA Guidelines section 15061 (b)(3) (common sense exemption), section 15301 (existing facilities), and section 15303 (new construction or conversion of small structures).

ALTERNATIVES

The Board could choose to not approve the Urgency Ordinance time extension, thereby keeping the original expiration date of April 1, 2021.

While many of the of the executive orders referenced in Urgency Ordinance 5126 as well as other executive orders issued following its adoption have recently expired and are no longer in effect throughout the State, the health emergency from COVID-19 remains and the extension of the Zoning Ordinance amendments under this Urgency Ordinance will further allow for County businesses to continue to operate in a safe manner, thereby preserving the health and safety of County residents while also lessening the adverse economic impacts as a result of COVID-19.

PRIOR BOARD ACTION

See Discussion/Background above.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

County Counsel reviewed and approved the Ordinance and the program.

FINANCIAL IMPACT

There is no change to Net County Cost associated with this item. The impacts of extending the term of this Urgency Ordinance are assumed to be fiscally positive to the County, its businesses, and residents, and will assist in the economic recovery from the COVID-19 crisis. No new or additional funding is required to implement or administer this Urgency Ordinance.

CAO RECOMMENDATION/COMMENTS

Approve as recommended.

CLERK OF THE BOARD FOLLOW UP ACTIONS

1) Publish the Urgency Ordinance Summary in the appropriate local newspaper(s) following Board approval of the Urgency Ordinance.

STRATEGIC PLAN COMPONENT

Economic Development - The extension of this Urgency Ordinance furthers the Strategic Plan goals of retaining, developing, and attracting businesses that provide economic sustainability and quality job creation and investing in infrastructure needs to improve and maintain competitiveness.

CONTACT

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