



M E M O R A N D U M
COMMUNITY DEVELOPMENT RESOURCE AGENCY
PLANNING SERVICES DIVISION
County of Placer

TO: Board of Supervisors DATE: May 26, 2020
FROM: Steve Pedretti, Agency Director
BY: Alex Fisch, Supervising Planner
SUBJECT: Urgency Ordinance Reducing Certain Outdoor Retail Regulations and Sign Requirements

ACTION REQUESTED

1. Introduce, waive oral reading and adopt an Urgency Ordinance to reduce outdoor retail regulations and signage restrictions on an interim basis in response to the COVID-19 crisis for an initial 45-day period with the option to continue the urgency ordinance for a future period of time if conditions warrant and as directed by the Board.

BACKGROUND

On March 4, 2020, California Governor Gavin Newsom declared a State of Emergency to formalize emergency actions to prepare for the broader spread of the COVID-19 disease. On March 12, 2020, Governor Newsom issued Executive Order N-25-20 ordering all residents to heed any orders or guidance on the imposition of social distancing measures issued by the California Department of Public Health, which were issued simultaneous to the Governor’s Executive Order. Social distancing measures are defined as the creation of physical space between individuals who may spread infectious diseases. On March 19, 2020, Governor Newsom issued Executive Order N-33-20 ordering all residents “to immediately heed the current State public health directives,” which included a Department of Public Health directive that people who leave their homes or places of residences “should at all times practice social distancing”. Within Executive Order N-33-20, the State Public Health Officer ordered “all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors” thereby shutting down or substantially limiting the operations of all non-essential business and services not identified as being part of the “16 critical infrastructure sectors whose assets, systems, and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or destruction would have a debilitating effect on security, economic security, public health or safety, or any combination thereof.”

Urgency Ordinance Provisions

This urgency ordinance would temporarily reduce provisions of the zoning code pertaining to conduct of outdoor retail sales, including outdoor restaurant dining areas and restaurant parking provisions. This urgency ordinance would also temporarily reduce provisions of the zoning code pertaining to restrictions for onsite and offsite advertising (e.g. signage).

Below is a brief description of proposed temporary code changes followed by a brief description of the effects of implementation.

Code Section 17.56.160 – Outdoor Retail Sales

The zoning code allows any approved retail establishment to display products for sale outdoors, subject to zoning clearance procedures to ensure safety of site operations and non-interference with ADA accessibility requirements. The outdoor display area is restricted to occupy an area no larger than 10 percent of the establishment’s gross indoor floor area that is devoted to retail sales and is not permitted to be located within any required parking area.

- Under the urgency ordinance outdoor sales would be permitted to occupy an area up to 100 percent of the gross indoor floor area devoted to retail sales, assuming there is an equivalent amount of outdoor area for sales to be conducted. Up to 20 percent of required parking spaces could be utilized as permissible outdoor sales and display area. For example, a retail shop consisting of 1,500 square feet of indoor sales area served by five parking spaces (one space per 300 square feet of retail usage) could implement up to 1,500 square feet of outdoor retail sales area and could utilize one of the five parking stalls for sales display area.

Code Section 17.56.190 – Restaurants (Outdoor Dining Areas)

The zoning code permits establishment of outdoor dining areas in accordance with the same provisions required for establishment of indoor restaurant area, as detailed in code section 17.06.050 (Land Use Permit Tables) shown below. Fast food restaurants may be established in permissible zoning designations with approval of a minor or conditional use permit, while traditional restaurants and bars may be permitted in several commercial zoning designations by zoning clearance and in others by minor or conditional use permit.

LAND USE TYPES	RESIDENTIAL				COMMERCIAL								INDUSTRIAL				AGRICULTURAL, RESOURCE, OPEN SPACE					
	RS	RM	RA	RF	C1	C2	C3	CPD	HS	OP	RES	AP	BP	IN	INP	AE	F	FOR	O	TPZ	W	
Restaurants and bars (Section 17.56.190)					C	C	C	CUP	C	MUP	MUP	MUP	C	C	MUP							
Restaurants, fast food (Section 17.56.190) (Ord. 5459-B)					MUP	MUP	MUP	CUP	MUP	MUP		MUP	MUP	MUP	MUP							

- Under the urgency ordinance, established restaurants would be permitted to temporarily establish outdoor eating areas by zoning clearance procedure in those zoning designations that already permit establishment of restaurants by zoning clearance. There would be increased flexibility to implement outdoor dining in “cordoned off” parking areas, as described under the next section of this report.
- For those zoning designations that permit establishment of restaurants by minor or conditional use permit, outdoor eating areas would be permitted with approval of an Administrative Approval, a type of permit reviewed at a staff level and acted upon by the Planning Director.
- Mobile food vendors would be permitted to locate fixed site operations at a specific site through approval of an administrative approval, whereas presently such operations are permitted only with approval of a minor use permit when operating from a specific location.

Enacting these provisions would provide restaurant operators with additional flexibility to temporarily increase utilization of outdoor areas, such as sidewalks that are wide enough to accommodate additional seating area without interfering with ADA accessibility requirements. This added flexibility could assist restaurants to partially offset decreased business capacity from lost indoor dining space resulting from implementation of social distancing requirements administered by the Department of Public Health.

Code Section 17.56.190 – Restaurant Parking for Outdoor Dining Areas

Restaurant parking is required to be provided at a ratio of one parking space per 100 square feet of outdoor dining area or one parking space per four seats/patrons within an outdoor dining area, whichever is more restrictive.

- Under the urgency ordinance the required parking for the outdoor dining areas would be reduced by one parking space per 100 square feet of indoor eating area not in use as a consequence of implementation of social distancing requirements. For example, if the indoor dining area of a restaurant is 1,000 square feet and the dining area is reduced by 50 percent or 500 square feet, outdoor dining capacity could be increased by up to 500 square feet or 20 patrons (e.g. five tables of four persons each or another combination).

The net effect of the relaxation of this standard would be to provide restaurants the ability to flexibly implement outdoor dining areas without the provisions to locate or construct additional parking area.

Code Section 17.54.170 – Section 3 (Signs – Temporary Sales and Events)

The zoning code allows for the placement of banners, signs or decorative materials to advertise outdoor retail sales uses, grand openings and similar short-term sales events for a maximum of up to 45 days per year. The maximum aggregate area of such signage is restricted to 100 square feet.

- During the term of this urgency ordinance the 45-day maximum would be suspended for temporary sales signs, banners and decorative materials.

Onsite advertising is one of the best and most cost-effective ways for businesses to connect with and attract customers. Providing relief in this area will promote flexibility to implement advertising strategies that communicate presence and services offered.

Code Section 17.54.170 – Section 4.D (Signs – Prohibited Signs and Sign Materials)

The zoning code prohibits certain types of signs and sign materials including, but not limited to, “A” frame signs more commonly referred to as sandwich boards, inflated and lighter than air signs such as blimps, balloons and air inducted signs that “wave”, and portable signs not permanently affixed to the ground or a building support structure.

- During the term of this urgency ordinance these types of signage would be allowed by right permitted that such signs would not be allowed to obstruct a required walkway in a manner that would interfere with ADA accessibility, that signs would be placed in a manner that would not interfere with vehicle sight distance at roadway or driveway intersections, that signs would not interfere with any public utility or structure such as overhead power lines, and would have no lighting or electronic displays. Other safety and size restrictions have been incorporated to place reasonable limitations on deployment of these sign types.

The ability to implement flexible cost-effective advertising strategies during this economic recovery period will provide increased opportunities for business.

The ordinance, if approved, would be effective immediately and would last for 45 days, until July 10, 2020. Government Code section 65858 includes the 45-day limitation, but also allows for an extension of the period through Board action at a subsequent public hearing.

ENVIRONMENTAL CLEARANCE

This action is exempt from the California Environmental Quality Act since 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), 15301 (existing facilities) and 15303 (new construction or conversion of small structures).

FISCAL IMPACT

The impacts of this action 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 administrate this urgency ordinance.

ATTACHMENT

Attachment A: Urgency Ordinance

ATTACHMENT A
Before the Board of Supervisors
County of Placer, State of California

In the matter of: An Urgency Ordinance
Reducing Outdoor Retail Regulations and
Sign Requirements on an Interim Basis
in Response to COVID-19

Ordinance No. 20_____

The following **Urgency Ordinance** was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held on May 26, 2020, by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed by me after its passage.

Chair, Board of Supervisors

Attest:

Clerk of said Board

WHEREAS, on March 4, 2020, California Governor Gavin Newsom declared a State of Emergency to formalize emergency actions and help prepare for the broader spread of the COVID-19 disease; and

WHEREAS, on March 12, 2020, Governor Newsom issued Executive Order N-25-20 ordering all residents to heed any orders or guidance on the imposition of social distancing measures; and

WHEREAS, the California Department of Public Health defines social distancing as “the creation of physical space between individuals who may spread infectious diseases,” and recommends achieving space of approximately six feet between individuals; and

WHEREAS, on March 19, 2020, Governor Newsom issued Executive Order N-33-20 ordering all residents “to immediately heed the current State public health directives,” which included a

directive that people who leave their homes or places of residences “should at all times practice social distancing;” and

WHEREAS, the COVID-19 pandemic and the corresponding executive orders are directly affecting retail operations within Placer County since social distancing recommendations for the creation of physical space between individuals significantly reduces the ability of retail businesses to operate at financially viable levels; and

WHEREAS, easing restrictions on outdoor retail space and eating areas will preserve the health and safety of residents by protecting their health and safety while also allowing retail operations in accordance with the social distancing recommendations; and

WHEREAS, the COVID-19 pandemic, the corresponding executive orders, and social distancing measures have also resulted in reduced business operations within the County, a loss of revenue, lost employment, and impacts to the livelihood of County residents; and

WHEREAS, in an effort to reverse declining revenues and reduce unemployment of County residents, enhanced marketing and outreach efforts, including means for business owners to expand visibility for their businesses, through the easing of requirements regarding placement and timeframes of certain types of signs, all serve to preserve the public peace and health of residents by assisting businesses within the County and encouraging employment of County residents.

THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA ORDAINS AS FOLLOWS:

Section 1: Placer County Code Chapter 17, Article 17.56, Section 17.56.160 is amended on an interim uncodified basis for the effective period of this ordinance as follows:

17.56.160 Outdoor retail sales.

F. Outdoor Display Accessory to a Retail Use. Any approved retail establishment may display products for sale outdoors, subject only to zoning clearance (no MUP or CUP is required) and provided that the outdoor display:

1. Occupies an area no larger than ~~ten~~ **one hundred (100)** percent of that establishment’s gross floor area devoted to retail sales within the building; and
2. Does not occupy ~~any~~ **more than twenty (20) percent of the** required parking area or any public right-of-way; and
3. Does not, in the opinion of the Placer County department of public works or the sheriff’s department, interfere with safe vehicular access to and from the site, emergency vehicle access, or pedestrian access; and
4. Is directly adjacent to the building which houses the retail establishment.

Section 2: Placer County Code Chapter 17, Article 15.56, Section 17.56.190 is amended on an interim uncodified basis for the effective period of this ordinance as follows:

17.56.190 Restaurants.

A. Outdoor Eating Areas. When restaurants and bars are allowed by Sections 17.06.030 et seq., (Allowable land uses and permit requirements) in the zone applicable to a site, any proposed outdoor eating areas are subject to the requirements of this section.

1. Permit Requirement. Outdoor eating areas shall be subject to those permit requirements established by this chapter for the restaurant or bar with which said areas are associated, where the outdoor eating area also conforms to the requirements of this section, **except for those zoning districts requiring approval of a minor use permit or conditional use permit, where outdoor eating areas shall be allowed with approval of an administrative approval.**

Outdoor eating areas that do not conform to the requirements of this section (such as hot dog stands, shaved ice vendors, etc.) may be authorized by **administrative** ~~minor use permit~~ approval, **which shall include written approval from the California Alcoholic Beverage Control if alcohol is served.** [see also Section 17.56.160(E) (Sales from Vehicles).]

2. Parking. Off-street parking shall be provided for use by patrons of the outdoor eating area at a ratio of one parking space per one hundred (100) square feet of outdoor eating area or one parking space per four seats within an outdoor eating area, whichever is more restrictive (See Section 17.54.060, Parking space requirements by land use). **However, the required parking for the outdoor eating area may be reduced by one parking space per one hundred (100) square feet of indoor eating area not in use.**

B. Restaurants within the Office-Professional Zone District. Restaurant and bar uses incidental and accessory to an office use shall be allowed only if:

1. The office building or complex of buildings on the same site has twenty thousand (20,000) square feet or more of leaseable space.

2. The principal entrance shall be from inside the office building.

3. The floor area of the restaurant shall not exceed one thousand (1,000) square feet or fifteen (15) percent of the total floor area of the building, whichever is greater.

Section 3: Placer County Code Chapter 17, Article 17.54, Section 17.54.170, subsections (C)(2)(o) and (p) are amended on an interim uncodified basis for the effective period of this ordinance as follows:

17.54.170 Signs.

o. Temporary Sales and Events. Banners, signs or decorative materials for an event conducted pursuant to Sections 17.56.160(C), 17.56.160(D) and 17.56.160(G) (Outdoor retail sales), or grand openings of a new facility on the same site. Such banners, signs and materials are limited to a maximum aggregate area of one hundred (100) square feet per site ~~and a maximum time of forty-five (45) days per year.~~ Uses permitted under Section 17.56.300 (Temporary Uses) are limited to a maximum aggregate area of one hundred (100) square feet per site of banners, signs or decorative materials or as otherwise provided by the use permit.

p. Window Signs. Temporary window signs, either painted with water-soluble paint, or constructed of paper, cloth or similar expendable material, ~~provided the total area of such signs is not more than twenty-five (25) percent of the window area, and provided that such signs are in place no longer than thirty (30) days in any sixty (60) day period.~~

Section 4: Placer County Code Chapter 17, Article 17.54, Section 17.54.170, subsection (D) is amended on an interim uncodified basis for the effective period of this ordinance as follows:

D. Prohibited Signs and Sign Materials. The following signs and sign materials are prohibited, as well as any other sign or sign materials that are not consistent with the provisions of this ordinance; **provided, however, signs described by subsections (1), (4) and (7) below shall be permitted without a sign permit subject to compliance with the standards set forth herein and with all other applicable provisions of this Section 17.54.170, including but not limited to size, area, setback, illumination, and construction and maintenance.**

1. "A"-frame Signs. On-premises or off-premises signs with two or more pieces of any rigid material whatsoever joined at the top so as to form an "A" when viewed in profile, which are not permanently affixed to the ground or a building, and which are otherwise consistent with the definition of a sign.

2. Animated Signs. Signs with any moving, rotating, flashing, or otherwise animated light or component, except for time and temperature displays and electronic changeable copy signs with cycle rates longer than three seconds, and traditional barber poles.

3. Hazardous Signs. Any sign that creates a traffic safety hazard by interfering with a driver's sight distance.

4. Inflated/Lighter-Than-Air Signs. (Except as provided in Section 17.54.180(C)(2)). **Blimps, balloons and similar lighter-than-air or inflated advertising devices shall be subject to the following requirements:**

- a. Only one such device is allowed for each business;**
- b. The device shall not have lighting or electronic displays;**
- c. The longest dimension of the inflated device shall not exceed fifteen (15) feet; and**
- d. The device shall not interfere with any public utility structure or facility.**

5. Obsolete Signs. Any sign or sign structure identifying a use or activity that has not occupied the site for more than six months.

6. Off-premises Signs. Except as provided by Section 17.54.190, any off-premises sign that directs attention to a business, service, product, or entertainment not sold or offered on the premises on which the sign is located, including but not limited to billboards and other off-premises outdoor advertising signs.

7. Portable Signs. Signs not permanently affixed to the ground, an approved support structure or a building. **A portable sign shall not (1) interfere with vehicle sight distance, or (2) obstruct the accessible path of travel along a pedestrian sidewalk or pathway. The number of portable signs allowed on each site shall be limited to one per business. A portable sign shall not exceed twenty (20) square feet in area.**

8. Signs on Public Property. Signs within a public road right-of-way, or placed on any other public property, except when placed on such property by the public agency having jurisdiction.

9. Signs on Natural Features and Other Structures. Signs affixed to or painted on trees, rocks, or other natural features, or on utility poles, street sign poles, traffic signal equipment and poles, or garbage receptacles.

10. Signs Without Permits. Any sign without an approved sign permit, unless specifically exempt per subsection (C)(2) of this section.

11. Simulated Traffic Signs. Any sign that simulates or imitates in color or design any traffic sign or signal, or uses words, symbols or characters that may interfere with, mislead or confuse pedestrian or vehicular traffic.

12. Vehicle Signs. Signs on vehicles, including trailers, when a vehicle is parked or stored on property for the purpose of identifying a business or advertising a product on the same site or a different site, unless the sign is permanently fixed to the vehicle, and the vehicle is used by the business to conduct its daily operations on a regular basis.

Section 5: The Board hereby declares, based on the findings set forth above, that there is an immediate need to preserve the public peace, health and safety constituting the urgency for adoption of this ordinance pursuant to Government Code sections 25123(d) and 65858. Accordingly, this ordinance is adopted as an urgency ordinance and shall take effect and be in force immediately upon its adoption and shall last forty-five (45) days from its adoption, until **July 10, 2020**, unless otherwise repealed or extended.

Section 6: The Director of the Community Development Resources Agency is authorized and directed to adopt such administrative procedures as may be necessary to implement this ordinance.

Section 7: The Clerk is directed to publish this ordinance, or a summary thereof, within fifteen (15) days in accordance with Government Code section 25124.