



**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: October 6, 2020

FROM: Steve Pedretti, Agency Director

BY: Alex Fisch, Supervising Planner

SUBJECT: Urgency Ordinance for 1-Year Extension of Interim Ordinance 6020-B Reducing Certain Outdoor Retail Regulations and Sign Requirements

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**ACTION REQUESTED**

1. Introduce, waive oral reading and adopt an urgency ordinance providing a 1-year extension of existing Ordinance 6020-B to reduce outdoor retail regulations and signage restrictions on an interim basis in response to the COVID-19 crisis.

**BACKGROUND**

This Urgency Ordinance was originally authorized on May 26, 2020 for an initial 45-day period in accordance with California Government Code Section 65858, which permits the County legislative body to adopt an urgency ordinance for an initial period of up to 45 days. Up to two extensions of the urgency ordinance may be approved. On July 7, 2020, the Board took action to extend the urgency ordinance an additional 90 days. Without further action, this urgency ordinance will lapse on October 8, 2020 at midnight. The Board may authorize a second and final extension of this urgency ordinance for a period of up to 1-year. If approved, this urgency ordinance would remain in effect until October 8, 2021 or until repealed.

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.”

In accordance with directives from the State Department of Public Health pertaining to development of business operations safety plans to address the spread of COVID-19, Placer County entered Stage 3 reopening on June 12, 2020. Stage 3 reopening included reopening of additional businesses and activities including but not limited to:

- Schools and school-based programs
- Day camps
- Hotels, lodging and short-term rentals (for tourism and individual travel)
- Campgrounds, RV parks and outdoor recreation
- Professional sports without live audiences
- Music, film and television production
- Gyms and fitness centers, including pools
- Family entertainment centers
- Zoos, museums, galleries and aquariums
- Bars and wineries; and
- Cardrooms and racetracks

Shortly after initiation of Stage 3 reopening in Placer County, statewide infection rates of COVID-19 increased, raising concerns that the rate of reopening could adversely impact statewide health care systems, civic functions such as education, and other sectors of the economy where people gather together in close proximity to one another or receive personal services. On August 28, 2020, Governor Newsom announced the Blueprint for a Safer Economy (Blueprint), which replaced the California Department of Public Health’s previous “Stages” criteria for determining which sectors of the economy would reopen and the rate of reopening.

The Blueprint imposes risk-based criteria that corresponds to COVID-19 infection rates, by county, to determine allowable activities. The tiered system, which establishes four levels of risk (minimal, moderate, substantial, and widespread), expands the length of time between changes in disease transmission rates and the progression of reopening plans. As of September 21, 2020, Placer County is placed in Tier 2 – Substantial, with most sectors of the economy facing substantial operational restrictions.

Restaurants are currently permitted to include indoor operations but are reduced to a maximum indoor capacity of 25% or 100 people, whichever is fewer. Extension of this urgency ordinance would continue to provide beneficial relief and increased opportunities for restaurants, retailers and other businesses to provide services to their customers in compliance with State Department of Public Health requirements.

**Extension of Approved Urgency Ordinance Provisions**

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

Below is a brief description of approved temporary code changes that are the subject of this extension request 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 are 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 may 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					
	R S	R M	R A	R F	C 1	C 2	C 3	C P D	H S	O P	R E S	A P	B P	I N	I N P	A E	F	F O R	O	T P Z	W
Restaurants and bars (Section 17.56.190)					C	C	C	C U P	C	M U P	M U P	M U P	C	C	M U P						
Restaurants, fast food (Section 17.56.190) (Ord. 5459-B)					M U P	M U P	M U P	C U P	M U P	M U P		M U P	M U P	M U P	M U P						

- Under the urgency ordinance, established restaurants are permitted to temporarily establish outdoor eating areas by zoning clearance procedure in those zoning designations that already permit establishment of restaurants by zoning clearance. The urgency ordinance also allows 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 are permitted with approval of an Administrative Approval, a type of permit reviewed at a staff level and acted upon by the Planning Director. The Administrative Approval permit fee was waived by the Board’s prior approval of the ordinance and would continue to be a zero-cost permit process for applicants under the provisions of this extension.
- 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 with approval of a minor use permit when operating from a specific location.

Enacting these provisions provides 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 or a portion of the required restaurant parking area. This added flexibility may 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 is 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 is to provide restaurants the ability to flexibly implement outdoor dining areas without the provisions to locate or construct additional parking area including the flexibility to temporarily utilize cordoned off parking areas to replace lost indoor dining 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 is 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 are allowed by right permitted that such signs are not allowed to obstruct a required walkway in a manner that would interfere with ADA accessibility, that signs are placed in a manner that does not interfere with vehicle sight distance at roadway or driveway intersections, that signs do not interfere with any public utility or structure such as overhead power lines, and do not have lighting or electronic displays. Other safety and size restrictions are 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 continue to provide increased opportunities for business.

### **PROGRAM REPORTING**

#### Program Outreach and Public Notification

Planning Division staff has established a webpage on both the Community Development Resources Agency landing page and the Planning Services Division landing page with information pertaining to program allowances. The “Retail Recovery” web page includes contact information for Planning Division staff who administer the program including a dedicated email account (and phone number) to monitor requests for approval of outdoor dining areas or to respond to other program questions. Application materials for approval of outdoor dining areas are also available for download on the website in PDF fillable format.

With the exception of establishment of outdoor dining areas which require approval of a “no fee” Administrative Review Permit, implementation of the provisions of this Urgency Ordinance are voluntary and self-regulating on the part of business owners. Accordingly, it is not possible to directly measure the benefits of this ordinance to Placer County businesses. However, based on staff’s understanding of the business climate and business owner expectations in unincorporated Placer County, staff believes that the program is providing some level of beneficial relief and that the continuation of the program will positively contribute to economic recovery.

#### Temporary Structures

As the pandemic continues into the Fall and Winter period, inclement weather will undoubtedly complicate matters for businesses implementing outdoor use areas in accordance with the urgency ordinance. The

urgency ordinance does not directly address establishment of temporary structures such as canopies, tents and stretch membrane structures with or without roll-down sides, as these temporary structures are already addressed in the state fire code and building code. Establishment of these temporary structures, when exceeding certain minimum sizes, duration of use, proximity to a building or when utilizing electrical service beyond 120 AC voltage, may trigger permit review by the serving fire agency and/or the Placer County Building Services Division. Planning Division staff has worked with the North Tahoe Fire Protection District staff and CalFire staff to prepare informational flyers that will be published to the Retail Recovery webpage and will be distributed to business associations to ensure that business owners and managers are made aware that permit clearances may be required for these structures.

### **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 continue to 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 Extension

# ATTACHMENT A

## Before the Board of Supervisors County of Placer, State of California

**In the matter of:** An Urgency Ordinance  
Extending for a Period of 1-Year the  
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 October 6, 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

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WHEREAS, on May 26, 2020, the Board passed Urgency Ordinance 6020-B, which reduces certain outdoor retail regulations and sign requirements in response to the COVID-19 crisis for the period of May 26, 2020 to July 10, 2020, and on July 7, 2020 extended the Ordinance for an additional 90 days, but the ordinance is now set to expire on October 8, 2020; and

WHEREAS, California Government Code section 65858 authorizes the adoption of urgency interim ordinances for the administration of zoning laws and regulations, and also authorizes extensions of time for the interim ordinances; and

WHEREAS, the Board desires to extend the ordinance for another 1-year because of continued loss of revenue, lost employment and impacts to the livelihood of County residents, so that the Board can continue to consider the best manner to respond to the impact of the COVID-19 disease; and

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.

WHEREAS, California Government Code section 65858(a) provides that after notice pursuant to Government Code section 65090 and a public hearing, the legislative body may extend an interim urgency ordinance; and

WHEREAS, the Board has determined that the approval of this extension is exempt from CEQA under CEQA Guidelines Sections 15061(b)(3) (common sense exemption), 15301 (existing facilities) and 15303 (new construction or conversion of small structures); and

WHEREAS, due notice of the hearing requesting this extension of time has been given as required by law.

**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.**

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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.

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**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.**

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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.~~

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**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.

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**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 a 1-year extension to this ordinance pursuant to Government Code sections 25123(d) and 65858. Accordingly, this ordinance is extended by 1-year and shall remain in full force and effect until **October 8, 2021**, unless otherwise repealed.

**Section 6:** The Director of the Community Development Resources Agency is authorized to waive the administrative approval application fee 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.

