



## Legislation Details (With Text)

|                      |  |                      |                                |
|----------------------|--|----------------------|--------------------------------|
| <b>File #:</b>       | 2020-0611  | <b>Status:</b>       | Agenda Ready                   |
| <b>Type:</b>         | Regular Calendar Item  | <b>In control:</b>   | Permit and Resource Management |
| <b>File created:</b> | 6/9/2020   | <b>Final action:</b> |                                |
| <b>On agenda:</b>    | 7/7/2020   |                      |                                |
| <b>Title:</b>        | Urgency Ordinance-Temporary Modifications and Encroachment COVID-19 Recovery   |                      |                                |
| <b>Sponsors:</b>     | Permit and Resource Management, Transportation and Public Works  |                      |                                |
| <b>Indexes:</b>      |  |                      |                                |
| <b>Attachments:</b>  | 1. Urgency Ordinance - Temporary Modifications and Encroachment COVID-19 Recovery.Summary.pdf, 2. Att 1 Ordinance Adopting Temporary Business Modifications During the COVID-19 Pandemic.pdf, 3. Att 2 Interim Policy for Zoning Ordinance Implementation to Accomodate Physical Distancing in Commercial Zones.pdf, 4. Att 3 Sec 26-88-121 Home Occupations.pdf |                      |                                |

| Date | Ver. | Action By | Action | Result |
|------|------|-----------|--------|--------|
|------|------|-----------|--------|--------|

**To:** Sonoma County Board of Supervisors

**Department or Agency Name(s):** Permit Sonoma

**Staff Name and Phone Number:** Tennis Wick, (707) 565-1925; Johannes Hoevertsz, (707) 565-3585

**Vote Requirement:** 4/5th

**Supervisory District(s):** Countywide

### Title:

Urgency Ordinance-Temporary Modifications and Encroachment COVID-19 Recovery

### Recommended Action:

Hold public hearing. After close of public hearing, find the proposed ordinance exempt from CEQA and adopt the proposed urgency ordinance. (4/5<sup>th</sup> Vote Required)

### Executive Summary:

The proposed urgency ordinance would authorize temporary measures to promote the local economy consistent with the public health order. Given the short notice of public health order revisions, staff issued the following administrative policies so business owners had regulatory guidance between the issuance of the health orders and Board consideration of this urgency ordinance: 1) greater flexibility for businesses in commercial areas to meet physical distancing requirements; and 2) direction to wineries, breweries, and distilleries. Depending on the Board's action on this ordinance, staff will revise or rescind the administrative policies to be consistent with the Board's direction.

Your Board previously adopted an urgency ordinance for modifications to Chapter 40B (Sonoma County COVID-19 Recovery) to extend land use entitlements for two years and toll the termination of legal nonconforming uses during the Shelter In Place Order plus 60 days.

Staff recommends adoption of the proposed ordinance to prevent further disruptions to the local economy and increase the flexibility for local businesses to accommodate physical distancing to avoid the serious risk of

a spike in increased transmission. This ordinance requires a 4/5 vote to adopt.

**Discussion:**

The COVID-19 pandemic and Shelter In Place Orders have affected most aspects of daily life in Sonoma County. The pandemic will cause significant ongoing disruption to the economy at the local, state, and national levels. Even as businesses are allowed to reopen, they are being required to modify their operations and accommodate physical distancing between employees, patrons, and the general public to mitigate the spread of COVID-19. The ability of businesses to have immediate flexibility in making their establishments safer is critical to continuing to protect the public health of our communities and avoid potential future spikes in transmission that could threaten our healthcare systems, the economy, and the general welfare.

County residents and businesses are still suffering from the effects of repeated disasters over the last three years: the 2017 Sonoma Complex Fire; the 2019 Russian River Flood; the 2019 Kincade Fire; and a series of PG&E power shutoffs.

Since 2017, the Board has adopted several urgency ordinances to address immediate needs following these disasters. In response to the 2017 Sonoma Complex Fires, the Board added Chapter 40 to address urgent housing and economic needs such as extension of land use permit expiration dates. In 2019, the Board amended Chapter 40 to provide an additional one-year extension to permits.

Please find below a highlight of the urgency ordinance provisions.

Temporary Modifications

Changes to commercial uses typically require local businesses to coordinate with Permit Sonoma to ensure compliance with existing permits and allowed land uses. Recognizing that dealing with applying for, obtaining, and complying with new or amended permit requirements places an undue burden on businesses reopening under the public health order, staff has created prescriptive standards to follow instead. The proposed ordinance addresses two immediate goals: (1) facilitating compliance with the health orders in a way that is flexible and least burdensome, and (2) reducing economic harm and business closures, blight, and job losses.

**Expansion.** This measure allows a business to expand into existing indoor areas such as an adjacent vacant shop or outdoor areas such as a parking lot to accommodate physical distancing without increasing the overall capacity or occupancy of the operation.

**Tasting Rooms Operation Hours.** This provision expands hours of operation for tasting rooms to accommodate the same number of customers in a longer time frame to reduce further the number of individuals utilizing a service at any given time.

**Delivery, Pick-up, and Take-out.** Businesses may provide delivery, pick-up, and take-out services as an allowed use to compensate for the lost occupancy resulting from physical distancing and to minimize the on-site presence of employees and customers.

**Wineries, Breweries, and Distilleries.** Previous public health orders have required food purchase with alcohol tasting and purchase for these establishments. While the recent amendment to the public health order issued during the drafting of this ordinance removes this requirement, staff has retained a limited allowance for retail food purchase should subsequent orders reinstate the requirement. Other measures provide businesses with

flexibility regarding seating and other operations to facilitate physical distancing.

### Exemptions

Chapter 26 (Zoning) requires permits for several proposed allowances during the public health order, hindering the ability of the community to address public health and safety needs in a timely manner.

**Home Occupations.** A significant population within unincorporated Sonoma County are working from home in conditions that may typically require a Home Occupation Zoning Permit. During the pandemic, working from home has proven critical to the continuity of essential services and the health of the local economy. To support working from home, this ordinance would exempt home occupations permit requirements if they meet existing code operational standards.

**Design Review.** All commercial operations require Design Review for permanent improvements. Due to the temporary nature of these measures, no modifications would trigger the Design Review requirement unless the business applies for the modification to be permanent even after the public health order ceases.

**Parking.** Parking requirements are often calculated based on the square footage of a type of use such as storage or dining. Temporary measures that increase total area for an allowed use would not trigger any requirement for additional parking because the overall intensity of a business would not increase. Additionally, converting parking to merchandise or seating space would not require compensatory parking because of the temporary nature and reduced intensity of the business.

**Encroachment.** Most of the unincorporated communities have main streets within State Department of Transportation (Caltrans) rights-of-way. Rather than multiple businesses applying to Caltrans for encroachment permits, Transportation and Public Works and Permit Sonoma are working with CalTrans and reviewing options to be able to streamline this process for local businesses. For example, the County may be able to apply as the local applicant for public use of the right-of-way use the standard Notice of Acknowledgement process to document and manage use of state right-of-way to provide public safety and proper management of space without requiring a local permit. If CalTrans and the Departments are able to accommodate this approach, staff has identified the existing minor encroachment fee (Fee ID 0706) that could be used to cover a portion of the time spent by staff verifying that individual businesses are in compliance with a community-scale encroachment permit.

### Protecting Agriculture

COVID-19 has disrupted Sonoma County agriculture, the core of our culture and our economy. Even though agricultural operations were allowed to continue operating as essential businesses, the supply chains they rely on to sell their products have been disrupted due to closures of client businesses such as schools and restaurants. There is a major concern that small agricultural operations in particular will have a difficult time adjusting to and recovering from the Shelter In Place and this could jeopardize access to local agricultural products. The proposed urgency ordinance would provide measures that allow farmers to augment income, expand supply chain and marketing opportunities, teach residents and visitors about agriculture, and offer the public another option to enjoying the outdoors in a safe manner.

**Agricultural Experiences.** The proposed ordinance would allow existing agricultural operations to host agricultural experiences such as hikes, nature walks, tours, picnics, and other outdoor activities that are designed to promote local agricultural production. The General Plan encourages allowing a range of

promotional and marketing activities. The types of activities proposed are small in scale, consistent with and incidental to agricultural production, and the standards imposed ensure there are no associated impacts. Authorizing agricultural experiences is urgently necessary to allow the agricultural industry to adapt during the pandemic and to protect local food supply. Opening farms and vineyards to the public experience can alleviate overcrowded parks and beaches. Staff recommends allowing agricultural experiences in all three agricultural districts - Land Extensive Agriculture (LEA), Land Intensive Agriculture (LIA), and Diverse Agriculture (DA) since the urgency ordinance would last only through the end of the calendar year. Staff will report to the Board in November on the successes and challenges of the program and adjust the regulations accordingly.

**Agricultural Promotional Events.** Facilities that are permitted for events may spread out their overall event capacity to hold a greater number of smaller events. For example, a facility that is allowed to hold one 100-person event per year could hold ten 10-person events. Currently, large gatherings and events are prohibited under the health order. Even as larger gatherings are allowed, it is anticipated that keeping gatherings and events small will be encouraged and more protective of public health. Allowing events to be spread out is critical to ensuring conformance to public health recommendations and decreases potential impacts associated with larger events.

All of the proposed temporary measures would afford businesses greater flexibility in complying with public health orders without also requiring new or amended permits or fees that would place an additional burden on local businesses. These temporary measures would also provide more land for safe gathering while promoting agriculture.

**Prior Board Actions:**

Ratification of Emergency Declaration

Urgency Ordinance--Chapter 40B Sonoma County COVID-19 Recovery

**FISCAL SUMMARY**

**Narrative Explanation of Fiscal Impacts:**

Not Applicable

**Narrative Explanation of Staffing Impacts (If Required):**

Not Applicable

**Attachments:**

Attachment 1: Ordinance Adopting Temporary Business Modifications During The COVID-19 Pandemic

Attachment 2: Interim Policy for Zoning Ordinance Implementation to Accommodate Physical Distancing in Commercial Zones

Attachment 3: Section 26-88-121 Home Occupations

**Related Items "On File" with the Clerk of the Board:**

Not Applicable