



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: ORD 20-007

June 09, 2020

Introduced: 6/2/2020

Current Status: Agenda Ready

Version: 1

Matter Type: Ordinance

- a. Find that adoption of an urgency ordinance is Statutorily Exempt per CEQA Guidelines Section 15269 as an action that is necessary to prevent or mitigate an emergency; and
- b. Adopt an urgency ordinance that would automatically extend land use and construction permits, except for subdivision maps, and allow applicants to request a temporary ministerial permit amendment if the amendment meets criteria listed in the ordinance. The automatic extension and any temporary amendment, if approved, would be in effect for the period of the Monterey County Health Officer orders related to the COVID-19 pandemic that place limitations on land use. (4/5 Vote Required)

Project Name: REF200023 - Urgency Ordinance Amending Permits

Project Location: Countywide (all unincorporated areas)

Proposed CEQA action: Statutorily Exempt per CEQA Guidelines Section 15269

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Find that adoption of an urgency ordinance is Statutorily Exempt per CEQA Guidelines Section 15269 as an action that is necessary to prevent or mitigate an emergency; and
- b. Adopt an urgency ordinance that would automatically extend land use and construction permits, except for subdivision maps, and allow applicants to request a temporary ministerial permit amendment if the amendment meets criteria listed in the ordinance. The automatic extension and any temporary amendment, if approved, would be in effect for the period of the Monterey County Health Officer orders related to the COVID-19 pandemic that place limitations on land use. (4/5 Vote Required)

SUMMARY/DISCUSSION:

The coronavirus pandemic has caused significant economic issues for the general public and business owners. Starting in March, the State of California and County of Monterey issued health orders ("Orders") that, in part, place limitations on land uses, including commercial and industrial operations. Various levels of restriction under these Orders may be in place for an extended period, exacerbating economic impacts that are already being projected from the past two months.

As the State and County allow businesses to open, businesses will need to comply with the Orders as they open. The restrictions as of today, such as physical distancing, will not allow many commercial or industrial operations to economically operate without changes to their operations. Certain operations have an approved land use entitlement with conditions for how they operate, and processing amendments to change those restrictions can require time and money. If some accommodations

cannot be made more immediately during this pandemic, many businesses may not be able to reopen or be able to do so in a manner that provides immediate protection for public peace, health and safety of County residents and that allows for the physical distancing required by the Orders. Therefore, RMA prepared an urgency ordinance for consideration to help address these issues on an urgent basis.

First, the ordinance would address immediate economic impacts caused by the pandemic by providing automatic extensions of permits that have been approved, but where the use or construction has not begun. The ordinance would automatically add the period of the Orders to the original permit expiration date. The ordinance would set the date of March 17, 2020 as the beginning date for that calculation.

Second, a ministerial process is established by the ordinance by which an applicant could request a temporary amendment to their existing discretionary permit to temporarily adjust their operations or site configuration to comply with the Orders. The Chief of Planning is established as the Authority to consider these requests. The amendment process would require that temporary development would have to be on already developed portions of the site. It would allow temporary conversion of landscaped or parking areas and require restoration of the site to the original permit configuration within 60 days of the Order's termination, as defined in the ordinance.

CEQA:

The California Environmental Quality Act Guidelines Section 15269(c) provides an exemption for specific actions necessary to prevent or mitigate an emergency. This ordinance provides automatic extensions to approved permits. Delaying construction or use would not cause any new physical changes to the environment. The ordinance also allows temporary flexibility in the location of specific uses already allowed by approved permits, such as temporarily converting parking or landscaped areas to temporary uses, such as seating, staging areas, or an outdoor area where customers meet with employees to conduct business. The ordinance does not allow permanent structures, will not create a change in use, and would not allow changes that would result in significant environmental effects, so no significant environmental impacts are reasonably expected from adoption of this ordinance. The ordinance is limited in term to the period during which a Public Health Order from the County or State places operational restrictions on land use such as physical distancing and will expire automatically at the end of that period. These relocated facilities and uses are limited to previously developed areas. These urgency measures are required to enable businesses to reopen in a manner that provides immediate protection of the public health and safety in compliance with County and State Health orders.

OTHER AGENCY INVOLVEMENT:

RMA consulted the Administrative Office and Health Department on this issue. County Counsel has approved the ordinance as to form.

FINANCING:

Adoption of this ordinance would not require funding or impact the County's general fund. Staff is recommending that requests submitted to the Resource Management Agency would not require an application fee to alleviate economic hardship. Review of the temporary amendment requests would

be performed by staff funded by the FY2019-20 adopted budget.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This proposed program correlates to the Health & Human Services Strategic Initiatives adopted by the Board of Supervisors by working toward the goals of improving health and quality of life outcomes to individuals and families because the ordinance addresses the immediate threat to the public peace, health, and safety and would allow land use permit holders to adjust their operations to comply with County and State public health orders resulting from the COVID-19 pandemic.

Mark a check next to the related Board of Supervisors Strategic Initiatives:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Mike Novo, Management Specialist x5176
Reviewed by: Brandon Swanson, RMA Planning Services Manager
Craig Spencer, RMA Planning Services Manager
Approved by: John M. Dugan, FAICP, Deputy Director of Land Use and Community Development
Carl P. Holm, AICP, RMA Director

The following attachments are on file with the RMA and attached to the staff report:

Attachments A - Draft Urgency Ordinance

cc: Front Counter Copy; Board of Supervisors; Nicholas Chiulos, County Administrative Office; Carl Holm, RMA Director; John M. Dugan, RMA Deputy Director; Shawne Ellerbee, RMA Director; Brandon Swanson, RMA Planning Services Manager; Craig Spencer, RMA Planning Services Manager; Mike Novo RMA Management Specialist; Wendy Strimling, Assistant County Counsel; Monterey County Health Department; Project File REF200023