



AGENCY: City Council
MEETING DATE: May 26, 2020
DEPARTMENT: City Manager
PRESENTED BY: S McCormick
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AGENDA ITEM SUMMARY

TITLE:

Receive Report and Consider Adoption of Urgency Ordinance No. 962-2020 Waiving Zoning Requirements and/or Standards to Facilitate Business Operations Affected by Public Health Orders

ISSUE:

The Mendocino County Health Officer, Dr. Noemi Doohan, declared a local health emergency on March 4, 2020. The County Health Officer issued a Recommended Shelter-in-Place Order on March 16, 2020, and a Mandatory Shelter-in-Place Order on March 18, 2020, most recently revised on May 15, 2020. These County orders are part of a larger statewide stay-at-home order issued on March 19, 2020 by Governor Newsom.

Modifications to the Shelter-in-Place Order are guided by health risk and will take a gradual phased approach that includes four stages, referred to as California's Resilience Roadmap. We are now in early Stage 2, where retail (curbside and delivery only), related logistics and manufacturing, office workplaces, limited personal services, outdoor museums, and childcare programs can open with modifications.

It is anticipated that most businesses will need to adapt to operate during the COVID-19 pandemic. Specific modifications to adhere to the Shelter-in-Place Order and Social Distancing requirements will vary depending on guidance prepared for specific industries. Businesses that are not anticipated to reopen until Stage 3 or Stage 4 may need to reconsider their business model entirely in order to stay economically viable.

ANALYSIS:

Regulatory flexibility and streamlining of approval processes could support the implementation of creative adaptations of business operations during the COVID-19 pandemic. Adaptations will likely be industry specific, site specific and differ depending on the proprietor's approach. For example, restaurants allowed to reopen with less capacity may desire to move tables outdoors and request to waive parking requirements, or serve meals at an off-site location. Likewise, retail shops may wish to move products outdoors or request to waive the maximum sign allowance.

The State and County are issuing guidance to help workplaces reopen safely. Businesses are encouraged to use innovative methods to build upon issued guidelines, but before opening, all facilities must perform a detailed risk assessment and implement a site-specific protection plan. The goal of these protective measures is to offer a safe environment for workers and customers. Counties that have met the readiness criteria will be able to move faster and be able to open more workplaces.

The purpose of the attached ordinance is to provide a process for business owners to request flexibility of zoning requirements and/or standards and receive timely responses for effective implementation. Requests would be made directly to the City Manager for approval; appeals would be considered by the Community Development Committee for initial determination and recommendation to the City Council.

The ordinance is a Municipal Code amendment to Title 2: Administration and Personnel, Chapter 2.24 Emergency Organization and Functions, Section 2.24.070 Powers and Duties of the Director During Emergency as follows:

2.24.070 POWERS AND DUTIES OF DIRECTOR DURING EMERGENCY.

A. In the event of a proclamation of a local emergency, or the proclamation of a state of emergency, or state of war emergency by the Governor, or the existence of a national emergency by the president, the Director is hereby empowered:

1. To promulgate orders and regulations necessary to provide for the protection for the life and property, including orders or regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. The orders and regulations shall be in writing and shall be confirmed at the earliest practical time by the City Council;

2. To obtain vital supplies, equipment, and any other properties found lacking and needed for the protection of life and property and to bind the City for the fair value thereof, and, if required immediately, to commandeer the same for the public use;

3. To require emergency services of any City officer or employee, and to command the aid of as many citizens of this community as the Director deems necessary in the execution of the Director's duties. In the event the aid of private citizens is necessary, the persons shall register as volunteers in accordance with the City emergency operations plan. The persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for registered disaster service workers;

4. To requisition necessary personnel or material of any City department or agency; and

5. To execute all of his or her ordinary powers as City Manager, as well as to execute all of his or her special powers conferred by this chapter, emergency operations plan, contingency plans, any agreement approved by the City Council, or by any other lawful authority.

6. To waive zoning requirements and/or standards to facilitate business operations of established businesses affected by public health orders of the federal, state, or county government, to the extent that such waivers would not result in an increase in general intensity of use beyond what is otherwise allowed, as applicable to zoning district.

B. Notwithstanding the provisions of the section, the Director is not authorized to commandeer any newspaper, newspaper wire service, or radio or television station, but if no other means of communication is available, the Director may utilize any news service, and the City shall pay the reasonable value of the use. In so utilizing any such facilities, the Director shall interfere as little as possible with the facilities' transmission of news.

Many businesses have been closed since March 19th and the economic impact of this closure is catastrophic. The path forward for each individual business is unknown, and this Urgency Ordinance would allow the City to respond to site specific, individual requests. Requests would be granted to the extent that waivers comply with the Shelter-in-Place Order and that such requests would involve negligible or no expansion of use.

Local businesses are already developing creative solutions. City staff was approached by a proprietor of a Bed & Breakfast concerned their business would not survive until Stage 4 and inquired about temporarily transforming the lodging kitchen into a bakery for curbside/delivery. Another potential option for a lodging facility might be to transform their property into a multifamily project with long-term rentals. Perhaps the yoga or fitness studio decides to apply for a limited term permit to host small outdoor classes, and then follows up with a request to waive the time limit. There are many possibilities for our local business community to explore and this ordinance supports Council's goal to be "Business Friendly" while maintaining the safety and wellbeing of the public.

RECOMMENDED ACTION:

City Council upon review may waive the reading of the Ordinance and adopt by title only an Urgency Ordinance of the City of Fort Bragg establishing authority to the Director of Emergency Services to waive zoning requirements and/or standards to the return to business operations during the COVID-19 pandemic.

ALTERNATIVE ACTION(S):

The City Council may choose to decline to adopt the Urgency Ordinance and/or provide other direction to staff.

FISCAL IMPACT:

There is no cost to business owners. The General Fund would support staff time to process requests.

GREENHOUSE GAS EMISSIONS IMPACT:

None to negligible impacts associated with greenhouse gas emissions.

CONSISTENCY:

The proposed urgency ordinance is consistent with all state laws, city ordinances, and emergency orders currently in effect.

IMPLEMENTATION/TIMEFRAMES:

If adopted by a four-fifths vote of the entire membership of the City Council, the proposed Urgency Ordinance will become effective immediately.

ATTACHMENTS:

1. Urgency Ordinance 962-2020

NOTIFICATION:

1. "Notify Me" subscriber lists: Fort Bragg Downtown Businesses; and Economic Development Planning.