



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: June 7, 2022

TO: Christine Daniel, City Manager

FROM: Charles S. Bryant, Community Development Director

SUBJECT: **Modifying Expiration Date Of Ordinance No. 20-016 Related To Expedited Permitting For Temporary Outdoor Seating For Restaurants And Bars During COVID-19 Pandemic:**

An Urgency Ordinance Of The City Council Of The City Of Emeryville Modifying The Expiration Date Of Ordinance No. 20-016 Related To Expedited Permitting For Temporary Outdoor Seating For Restaurants And Bars During COVID-19 Pandemic; CEQA Determination: Exempt Pursuant to California Public Resources Code Section 21080(b)(4) and State CEQA Guidelines 15269(c) and 15061(b)(3)

An Ordinance Of The City Council Of The City Of Emeryville Modifying The Expiration Date Of Ordinance No. 20-016 Related To Expedited Permitting For Temporary Outdoor Seating For Restaurants And Bars During COVID-19 Pandemic; CEQA Determination: Exempt Pursuant to California Public Resources Code Section 21080(b)(4) and State CEQA Guidelines 15269(c) and 15061(b)(3)

RECOMMENDATION

Staff recommends that the City Council adopt the above-referenced urgency ordinance modifying the expiration of Ordinance No. 20-016 related to expedited permitting for temporary outdoor seating for restaurants and bars during the COVID-19 pandemic, which will take effect immediately if adopted by a 4/5 vote of the entire Council. Staff also recommends that the City Council adopt the first reading of the companion regular ordinance.

BACKGROUND

On June 16, 2020, in response to State and County orders prohibiting indoor dining due to the COVID-19 pandemic, the City Council passed urgency Ordinance No. 20-014, temporarily waiving or modifying certain provisions of the City's Planning Regulations related to outdoor seating for restaurants and bars during the pandemic, as well as the first reading of regular Ordinance No. 20-016 with the same provisions. On July 7, 2020, the City Council passed Ordinance No. 20-016 on second reading. This ordinance took

effect 30 days later, on August 6, 2020, at which point urgency Ordinance No. 20-014 had no further force and effect. Ordinance No. 20-016 was effective for one year, until August 6, 2021.

At the time Ordinance No. 20-016 was adopted, it was assumed that the pandemic would be over well before its termination date of August 6, 2021. Since the ordinance has now expired, any outdoor dining facilities operating under its prior provisions are nonconforming. However, in light of the ongoing pandemic, staff has not taken action to require them to be removed.

DISCUSSION

On May 3, 2022, the City Council held a discussion about making permanent the provisions of Ordinance No. 20-016. As part of that discussion, the Council directed that an ordinance be brought back to extend the expiration date of Ordinance No. 20-016 to 180 calendar days after the date of expiration or termination of the City of Emeryville's declared State of Emergency due to the COVID-19 pandemic, as set forth in Resolution No. 20-23, and to declare that any outdoor dining facilities approved under Ordinance No. 20-016 remain valid and conforming. This item is responsive to that Council direction.

FISCAL IMPACT

Modification of the expiration date of Ordinance No 20-016 will have no fiscal impact on the City.

STAFF COMMUNICATION WITH THE PUBLIC

Staff has had no communication with the public about this agenda item.

CONCLUSION

Staff recommends that the City Council take the following actions on the urgency ordinance:

1. Introduce the proposed urgency ordinance after a motion to read by title only.
2. Take public testimony regarding the proposed urgency ordinance.
3. Adopt the proposed urgency ordinance by at least a 4/5 vote of the entire Council.

Staff further recommends that the City Council take the following actions on the regular ordinance:

1. Introduce the proposed ordinance after a motion to read by title only.
2. Take public testimony regarding the proposed ordinance.
3. Adopt the first reading of the proposed ordinance.

**APPROVED AND FORWARDED TO THE
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



Christine Daniel, City Manager

ATTACHMENTS

- 1. Ordinance No. 20-016
- Proposed Urgency Ordinance
- Proposed Regular Ordinance