

ORDINANCE NUMBER 2020-436

URGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PORTOLA VALLEY ESTABLISHING A TEMPORARY STREAMLINED PLANNING REVIEW PROCESS DURING THE LOCAL EMERGENCY FOR EXISTING BUSINESSES DIRECTLY IMPACTED BY THE COVID-19 PANDEMIC

WHEREAS, international, national, state, and local governmental and health authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus and commonly referred to as COVID-19;

WHEREAS, on March 3, 2020, the San Mateo County Health Officer (“County Health Officer”) declared a local health emergency throughout San Mateo County related to the COVID-19 outbreak;

WHEREAS, on March 10, 2020, the Board of Supervisors of the County of San Mateo ratified and extended the declaration of a local health emergency;

WHEREAS, on March 14, 2020 the County Health Officer prohibited all public or private gatherings of 50 or more people and urged the cancellation of all gatherings of ten or more people in a single confined space;

WHEREAS, on March 16, 2020, the County Health Officer issued a further order directing, among other things, that all individuals living in the county shelter at their place of residence, except to provide or receive essential services, or engage in essential activities, and that all businesses and governmental agencies cease non-essential operations at all physical locations in the county;

WHEREAS, on March 31, 2020, and April 29, 2020, the County Health Officer extended the shelter-in-place order due to the significant increase in the number of positive cases, hospitalization and deaths from COVID-19;

WHEREAS, on May 15, 2020, the County Health Officer amended the order to allow certain businesses to operate if specific conditions can be met and is expected to slowly allow other types of businesses to operate with restrictions;

WHEREAS, for existing local businesses to comply with the restrictions in the current and anticipated orders, they may need to make temporary changes to the way their business operates to remain financially viable;

WHEREAS, the dramatic and unexpected loss of income for businesses may require some business owners to change their location to remain financially viable;

WHEREAS, a number of local small businesses that provide essential items (e.g. food, veterinary services, hardware store, public safety patrol) and services to town residents are deemed essential businesses under the county and statewide shelter-in-

place orders, and it is in the public interest to have them continue to operate during the local emergency and after the restrictions in the shelter-in-place orders are lifted;

WHEREAS, to the extent that local small businesses are not currently operating or not operating at full capacity due to the shelter-in-place orders, it is in the public interest to have them resume operations as soon as the county and statewide shelter-in-place orders allow operation because the ongoing existence of such small businesses are essential to the protection of the public peace and health, safety, life, property and general welfare of town residents;

WHEREAS, it is in the public interest to take immediate steps to mitigate the impacts of COVID-19 by ensuring that local businesses, which are essential to the health and vibrancy of the community, survive this current pandemic; and

WHEREAS, the Town's existing process to amend Conditional Use Permits and conduct Architectural and Site Plan Review may not be timely enough to allow businesses to alter their businesses to comply with the restrictions in the order and remain financially viable;

WHEREAS, on March 17, 2020, the Town of Portola Valley declared a local state of emergency due to the rapid spread of COVID-19;

WHEREAS, on May 13, 2020, the Town of Portola Valley extended the local state of emergency for 30 days and may extend it further as additional information becomes available on the status of the COVID-19 pandemic;

WHEREAS, the Town of Portola Valley, pursuant to its police powers, has broad authority to maintain the public peace, health, safety, comfort, convenience, prosperity and welfare of its community and preserve quality of life for its residents;

WHEREAS, Government Code Section 36937 (b) authorizes the Town Council to adopt an urgency ordinance for the immediate preservation of the public peace, health, or safety provided it contains a declaration of the facts constituting the urgency and is passed by a four-fifths vote of the Town Council;

WHEREAS, the current ordinance establishes reasonable public peace, health and safety regulations in that it attempts to balance the need for expeditious planning review to support the financial viability of existing businesses while preserving the community value of a committee review process; and

WHEREAS, based on the foregoing, the Town Council desires to establish a streamlined review process for temporary planning applications for changes to existing businesses directly impacted by the COVID-19 pandemic.

NOW, THEREFORE, the Town Council of the Town of Portola Valley does **ORDAIN** as follows:

1. FINDINGS. The Town Council finds that the foregoing recitals are true and correct and are incorporated into this ordinance and adopted as findings of the Town Council. The Town Council further finds, determines and declares that this ordinance is urgently needed for the immediate preservation of the public peace, health, safety or welfare of the community because:

- A. further economic impacts are anticipated as result of COVID-19-related workplace closures, childcare expenditures due to school closures, health care expenses, labor shortages, and other expenditures stemming from compliance with emergency orders, leaving businesses vulnerable to economic impacts they cannot overcome;
- B. these economic impacts may inhibit businesses from operating at a profit without changes to their physical business practices, location, or operational practices or may cause such businesses to permanently close or relocate;
- C. during this emergency, and on an ongoing basis, in the interest of protecting the public welfare it is essential to avoid unnecessary closure of business that serve the routine commercial needs of the Town.

2. AMENDMENT OF CODE. Title 18- Zoning of the Municipal Code is amended on a temporary basis as follows:

- A. This ordinance shall be effective immediately upon adoption by the Town Council and shall sunset on the same day as the local state of emergency ends.
- B. The requirements of this ordinance shall supersede the Municipal Code requirements of Chapter 18.72 and Chapter 18.76 related to Conditional Use Permits, and Chapter 18.64 Architectural and Site Plan Review, only as to temporary approvals for existing businesses that have been directly impacted by the COVID-19 pandemic.
- C. Applications for temporary Conditional Use Permits, Conditional Use Permit Amendments, and Architectural and Site Plan Review for existing businesses that have been directly impacted by the COVID-19 pandemic shall be reviewed as follows:
 - a. The decision making body shall be the Ad-Hoc Planning Review Committee rather than the Planning Commission and/or Architectural and Site Control Commission (ASCC).
 - b. Meetings of the Ad-Hoc Planning Review Committee shall be held on an as-needed basis when applications are received. Meetings shall be held via video teleconference. Agendas shall be posted on the website at least 24 hours before the meeting. The public is invited to attend electronically or call in.

- c. The Ad-Hoc Planning Review Committee shall consider the Findings for Approval in Sections 18.64.060 and 18.72.130, as applicable for the type of permit, when approving or denying the project. The Ad-Hoc Planning Review Committee may add conditions of approval to protect the community health, safety, welfare, and ensure compliance with the General Plan.
 - d. The Ad-Hoc Planning Review Committee shall be authorized to grant only temporary approvals requested by applicants to mitigate the impacts of COVID-19. Temporary approvals may have a specific end date or may be linked to government health orders. The Ad-Hoc Planning Review Committee is authorized to grant reasonable extensions if the local emergency continues and/or new information becomes available about the status of the COVID-19 pandemic.
 - e. Applicants seeking permanent approvals are allowed to apply for temporary approval through this process then come back for permanent approvals through the Town's normal decision-making process.
 - f. The filing fees in the Town's Fee Schedule shall not apply to projects reviewed under these procedures. Instead, each applicant shall pay a deposit and staff will charge the cost of staff time at the current hourly rate against that deposit for the time it takes to process the application.
 - g. Meetings and decisions of the Ad-Hoc Planning Review Committee shall not be governed by the requirements of Municipal Code Chapters 18.64, 18.72 and 18.76 related to public hearings and appeals, but instead shall be governed by this Urgency Ordinance.
 - h. Decisions of the Ad-Hoc Planning Review Committee may be appealed to Town Council within five (5) calendar days of the decision.
 - i. The Ad-Hoc Planning Review Committee may refer any project to the Town Council, Planning Commission or ASCC if they feel that it would serve the public interest. The Ad-Hoc Planning Review Committee may request the Planning Commission or ASCC for a recommendation or may delegate in whole or part their decision-making authority to such body. If the referral is made to the Town Council, the Ad-Hoc subcommittee may elect to provide a recommendation, but need not do so.
- D. Individual projects will be evaluated under the California Environmental Quality Act (CEQA). If projects are not found to be exempt, they will not be eligible for this streamlined process and will proceed through the Town's normal decision-making process.
- E. The Planning & Building Director shall have the authority to develop administrative procedures and submittal requirements for implementation of this ordinance.

F. For the purposes of this ordinance, the following definitions shall apply:

- a. "Ad-Hoc Planning Review Committee" is a temporary committee formed to review and make decisions on certain planning applications during the local state of emergency enacted for the COVID-19 pandemic. The members shall include: the Chair of the Planning Commission, the Chair of the ASCC, the Town Manager, and the Planning & Building Director. One Town Council Member shall serve as a liaison.
- b. "directly impacted" shall mean any of the following: (a) a business that has to alter its physical business practices to comply with social distancing and other safety procedures required by a government health authority; (b) a business that has to change locations due to losses associated with reduction of hours or other economic impacts of COVID-19; (c) a business that wishes to change its operational practices or hours of operation to compensate for economic impacts of COVID-19; or (d) other circumstances that the As-Hoc Planning Review Committee find are substantially similar to items a-c.
- c. "existing business" is a business that was open and operating in Portola Valley with all applicable Town permits and approvals prior to March 16, 2020 when the County shelter in place was issued.

3. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION. In accordance with the California Environmental Quality Act ("CEQA") guidelines section 15061(b)(3), adoption of this ordinance is exempt from the provisions of CEQA, because there is no possibility that the implementation of this ordinance may have a significant effect on the environment. This ordinance would allow for the creation of streamlined planning review for certain small projects to respond to the challenges brought on by the COVID-19 pandemic. Each individual project reviewed under this process would be evaluated under CEQA; if the project is not found exempt, it would be required to go through the Town's normal land use decision making process including the appropriate CEQA analysis.

4. SEVERABILITY. In the event any section, clause or provision of this ordinance shall be determined invalid or unconstitutional, such section, clause or provision shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

5. EFFECTIVE DATE AND POSTING. This ordinance shall be published in a newspaper of general circulation. This shall be effective immediately upon adoption.

PASSED AND ADOPTED as an ordinance of the Town of Portola Valley at a regular meeting of said Council on the 27th day of May 2020, by the following vote:

AYES: Councilmembers: Wengert, Richards, Hughes and Mayor Aalfs

NOES: Councilmembers: None

ABSTENTIONS: Councilmembers: None

ABSENT: Councilmembers: Vice Mayor Derwin

ATTEST



Sharon Hanlon, Town Clerk



Jeff Aalfs, Mayor

APPROVED AS TO FORM



Town Attorney