

DATE SUBMITTED 11/10/2020
 SUBMITTED BY COMMUNITY DEVELOPMENT DIRECTOR
 DATE ACTION REQUIRED 11/18/2020

COUNCIL ACTION (X)
 PUBLIC HEARING REQUIRED
 RESOLUTION ()
 ORDINANCE 1ST READING ()
 ORDINANCE 2ND READING ()
 CITY CLERK'S INITIALS [Signature]

**IMPERIAL CITY COUNCIL
AGENDA ITEM**

SUBJECT: DISCUSSION/ACTION: URGENCY ORDINANCE TO AUTHORIZING BUSINESSES OUTDOOR SERVICES 1. TIME EXTENSION REQUEST OF ORDINANCE NO. <u>810</u> ON THE URGENCY AUTHORIZING THE USE OF OUTDOOR SPACE AND PARKING FOR BUSINESS SERVICES	
DEPARTMENT INVOLVED: COMMUNITY DEVELOPMENT DEPARTMENTMENT	
BACKGROUND/SUMMARY: On October 7, 2020 the City of Imperial Approved the 45-day Urgency Ordinance. The Ordinance is proposed to be extended until June 1, 2021. Under the urgency ordinance, certain established commercial businesses would be permitted to temporarily establish outdoors with limited and modified services, as outlined in State of California's COVID19 business operations list. There would be increased flexibility to implement outdoor commercial and retail services "cordoned off" parking areas, as described under the Ordinance. Enacting these provisions would provide certain identified businesses, the additional flexibility to temporarily increase utilization of outdoor areas, such as parking areas to accommodate customers with modified services without interfering with ADA accessibility and parking requirements. This added flexibility could assist commercial and retail businesses to partially offset decreased business capacity from lost indoor space resulting from implementation of social distancing requirements administered by the Department of Public Health. The impacts of this action will be fiscally positive to the City, its businesses and residents, and will assist in the economic recovery from the COVID-19 crisis. Government Code 65858 requires four-fifths (4/5) vote of the legislative body for adoption and the Urgency Ordinance shall be of no further force and effect through June 1, 2021 from its date of adoption. Businesses Identified to operate outdoors with limited and modified services is as follows: Restaurants, Gyms and Fitness Centers, Hair salons and barbershops, Auto Repair Shops, Body waxing studios, clothing and shoe stores, dance studios, day camps, dry cleaners, family entertainment centers, home and furnishing stores, message therapy studios, pet groomers, places of worship.	
FISCAL IMPACT:	ADMIN SERVICES SIGN INITIALS _____
STAFF RECOMMENDATION: Staff recommends the time extension of Ordinance No. <u>810</u> on an urgency authorizing the use or additional space for identified outdoor commercial retail services	DEPT. INITIALS <u>DM</u>
MANAGER'S RECOMMENDATION: <u>approve</u>	CITY MANAGER'S INITIALS <u>[Signature]</u>
MOTION: SECONDED: APPROVED () REJECTED () AYES: DISAPPROVED () DEFERRED ()	

NAYES:
ABSENT:

REFERRED TO:

ORDINANCE NO. _____

**URGENCY ORDINANCE TO AUTHORIZE THE USE OF NEW OR ADDITIONAL
SPACE FOR OUTDOOR BUSINESS SERVICES**

The City Council of the City of Imperial does ordain as follows:

SECTION 1: Chapter 24 of the Imperial Municipal Code is hereby amended to allow the use of new or additional space for outdoor business services under this Ordinance.

Findings. Current City Ordinance provide for outdoor business services in limited circumstances and only in specific land use zones. Such ordinances are inconsistent and may be in conflict with contemplated changes to the City's land use scheme. In order to protect and enhance the public health, safety and welfare, this urgency ordinance is necessary in that it provides for outdoor business services.

SECTION 2: Outdoor Business Services. The following provisions apply to new or additional areas sought to be utilized for outdoor business services:

A. Definitions.

1. Outdoor Business Service Area. "Outdoor Business Service Area" means services covered by a temporary Outdoor Business Service permit approval with limited and modified services as outlined by the State of California's COVID19 standards and guidelines of permitted business operations.
2. Temporary Outdoor Business Service Approval. Temporary outdoor business service approval authorizes a business to temporarily utilize new or expanded outdoor areas on private property.
3. Temporary Outdoor Business Service Area Permit. A temporary Outdoor Business permit is a permit temporarily authorizing a business to engage in commercial business services, within a designated area on a public right-of-way.

B. Temporary Suspension of Regulations Governing Outdoor Business Service Areas. The following regulations temporarily shall supersede and replace any conflicting provisions of the City's zoning ordinances or regulations governing outdoor Business services. All applicants for temporary outdoor commercial retail service approval shall follow the procedures set forth in Section 2.C and the comply with the standards set forth in Section 2.D.

C. Temporary Outdoor Business Service Approval. Any commercial business desiring to offer outdoor services on private property shall first apply to the Community Development Department and provide all information deemed necessary by the City's Community Development Director. The Community Development Director is hereby

authorized and directed to generate standard application forms and adopt internal procedures for such purpose.

- D. Standards for Temporary Outdoor Business service areas, businesses desiring temporary outdoor commercial retail service approval on private property shall comply with the following standards:
1. The business shall be properly licensed by appropriate state and local agencies to perform any activities, sales, and services.
 2. The business shall comply with all applicable laws relating to litter, noise, and other livability matters. In addition to the foregoing, no amplified music shall be permitted in outdoor commercial retail service areas. The Community Development Director may impose additional conditions or limitations relating to noise on the restaurant when the Director finds that such additional conditions or limitations are necessary or appropriate based on the location of the new or additional outdoor commercial retail service area and the proximity of such area to residential areas, including without limitation existing residences, existing residential neighborhoods, and residentially-zoned properties.
 3. Outdoor Business Service areas shall not encroach within any public rights-of-way.
 4. Outdoor Business Service areas shall not encroach into or interfere with required handicapped parking spaces.
 5. Outdoor Business Service areas shall not interfere with safe pedestrian and vehicular access or access required to be maintained under the Americans with Disabilities Act.
 6. Outdoor Business Service areas shall not encroach within or interfere with fire and other emergency access.
 7. Any sales and/or consumption of food and/or alcoholic beverages shall be in compliance with the provisions of any federal, state, and/or local laws and regulations governing same.
 8. Outdoor Business Service areas shall comply with all applicable occupancy requirements or other provisions of the fire code.
 9. The Community Development Director may impose other conditions or limitations on a restaurant to protect against adverse impacts from noise, traffic, parking, fire, people with disabilities, and travel.

SECTION 3: Business owners/operators are responsible for ensuring that the procedures and standards set forth in this Ordinance are followed or otherwise cease services. The City may deny or revoke any license granted to conduct any such business when, in the judgment of the City, the business is not complying with this Ordinance.

SECTION 4: Fee Waivers for outdoor business services permits, and Parking Space Closures.

- A. The parking space closure fee in the Municipal Fee Schedule collected by the Community Development Department is temporarily waived for the use of a parking lot for purposes of outdoor business services and display of wares as authorized through a permit, license, or agreement with the City.

SECTION 5: The City of Imperial Fire Department, Police Department, Building and Safety Division, and Code Enforcement Officer, are hereby authorized to inspect and determine whether businesses are in compliance with this Ordinance. Any person who shall refuse to allow such inspection or who shall obstruct any officer whose duty it is to make such inspection shall be subject to the revocation of a license.

SECTION 6: Environmental Clearance. This action is exempt from the California Environmental Quality Act since it would result in minor alterations to existing facilities and does not have the potential for causing a significant effect on the environment in accordance with CEQA Guidelines section 15061(b)(3) (common sense exemption), 15301 (existing facilities) and 15303 (new construction or conversion of small structures).

SECTION 7: Effective Date. This ordinance is adopted on an urgency basis and shall be effective immediately upon adoption. Prior to the expiration of fifteen (15) days from the passage thereof, this ordinance shall be published at least once in a newspaper of general circulation printed and published in the County of Imperial, together with the names of the members of the City Council voting for and against the same.

I HEREBY CERTIFY that the foregoing Ordinance was duly adopted by the City Council of the City of Imperial at a _____ meeting thereof, held on the _____ day of _____, 2020, by the following vote, to wit:

<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Debra Jackson, City Clerk

The foregoing Ordinance is hereby approved this _____ day of _____, 2020.

Darrell Pechtl, Mayor

ATTEST:

Debra Jackson, City Clerk