

STAFF REPORT



COMMUNITY DEVELOPMENT

DATE: November 1, 2022

TO: Justin Hess, City Manager

FROM: Patrick Prescott, Community Development Department Director
Via: Fred Ramirez, Assistant Community Development Director - Planning
By: Scott Plambaeck, Planning Manager
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SUBJECT: Adoption of an Extension of an Interim Urgency Ordinance Establishing a Moratorium on New and Replacement Restaurants with Drive-Throughs and the Conversion of Businesses with Drive-Throughs into Drive-Through Restaurants Citywide

RECOMMENDATION

Adopt AN EXTENSION OF AN INTERIM URGENCY ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK ESTABLISHING A MORATORIUM ON NEW AND REPLACEMENT RESTAURANTS WITH DRIVE-THROUGHS AND THE CONVERSION OF BUSINESSES WITH DRIVE-THROUGHS INTO DRIVE-THROUGH RESTAURANTS CITYWIDE (ATTACHMENT 1) (4/5th vote required).

BACKGROUND

On October 4, 2022, the City Council was presented with a report that outlined potential negative impacts posed by drive-through facilities to adjacent residential neighborhoods and commercial corridors in the City of Burbank. The City Council adopted an Urgency Ordinance (Attachment 2) that established a temporary moratorium on new and replacement restaurants with drive-throughs, the conversion of businesses with drive-throughs into drive-through restaurants, and the expansion of hours of drive-through operations citywide. The extension of the current moratorium would allow staff to review the City's existing drive-through standards, review development standards for other jurisdictions that have dealt with similar issues, and report back to City Council on possible next steps that may include a Zone Text Amendment (ZTA).

Without the moratorium extension and an update to the City's current zoning regulations that govern drive-through facilities, residents and commercial businesses might be negatively impacted by increased vehicular traffic, blocked driveways, trash, and unruly

or disrespectful patrons. These impacts would hinder the City's ability to preserve the public health, safety, and welfare.

DISCUSSION

California Government Code Section 65858(d) requires that 10 days prior to the expiration of the urgency ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition that led to the adoption of the ordinance.

Staff has begun preliminary research into neighboring jurisdictions to review their development standards for drive-through restaurants. However, the work to address the potential negative impacts posed by drive-through facilities remains ongoing. Staff will need additional time to complete a thorough analysis of possible regulations to be incorporated into a local ordinance and prepare a set of possible next steps to amend the City's permitting process for drive-through facilities. This effort cannot be completed within the 45-day period of the current Interim Urgency Ordinance. Therefore, staff is requesting that the City Council extend the urgency ordinance as permitted by California Government Code Section 65858(a).

Pursuant to State law, the adopted urgency ordinance is valid for 45 days and will expire on November 18, 2022, unless extended by City Council. After holding a public hearing, the City Council can extend the urgency ordinance for an additional 10 months and 15 days, for a total effective period of one year (CA Government Code Section 65858(a)). As with the initial adoption of the urgency ordinance, a four-fifths (4/5) vote is required to extend the urgency ordinance. The City Council may extend the Interim Urgency Ordinance using the same moratorium adopted on October 4, 2022 or allow the Interim Urgency Ordinance to expire.

Staff recommends the City Council extend the Interim Urgency Ordinance for 10 months and 15 days, until August 19, 2023, to allow staff time to:

1. Research and consider the potential negative impacts that drive-through restaurants pose to residential neighborhoods and commercial corridors;
2. Research the development standards for drive-through restaurants of nearby and comparable cities of Glendale, Pasadena, Santa Clarita, and Long Beach to understand what solutions these jurisdictions have employed to address the potential negative impacts;
3. Gather community input; and
4. Continue the current research and development process for a ZTA that would update the development standards for a drive-through restaurant.

Necessity for the Extension of the Moratorium

There are at least 12 potential conversion sites for new or replacement restaurant drive-through locations. Given the significant number of potential sites eligible for conversion, an Interim Urgency Ordinance is necessary to preserve public health, safety, and welfare, as the approval of additional or replacement restaurant drive-throughs at these sites has the potential to create the concerns described above. Although staff is in the process of evaluating new queuing standards to meet the needs of a new drive-through business model, any restaurant drive-through that is approved while the standards are being developed would expose the public to potential negative effects and an Interim Urgency Ordinance is necessary to prevent that from happening.

An extension to the Interim Urgency Ordinance will give staff time to thoroughly research and develop a comprehensive set of regulations that recognize and balance the various interests related to restaurants with drive-throughs in a manner that accounts for the City's needs and the community vision, which support more walkable and pedestrian-friendly environments, reduce greenhouse gas emissions, and reflect the current land use and zoning policy choices of the City.

Environmental Assessment

The proposed extension of the Interim Urgency Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA). The proposed Interim Urgency Ordinance is exempt from review under CEQA, pursuant to California Code of Regulations Section 15061(b)(3). The activity is covered by the commonsense exemption that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Therefore, it is the City's determination that the Interim Urgency Ordinance and its extension will not have a significant effect on the environment and is not subject to CEQA.

FISCAL IMPACT

There is no fiscal impact to the City's General Fund by extending the Interim Urgency Ordinance establishing a moratorium on new and replacement restaurants with drive-throughs citywide. A future ZTA and any associated development standards that may be proposed at a future date will include a budget estimate for consultant services for City Council consideration.

CONCLUSION

The requested extension to the adopted Interim Urgency Ordinance will provide staff adequate time to research this issue and present a comprehensive set of requirements that the City Council may consider for the ongoing regulation of new and replacement restaurants with drive-throughs, the conversion of businesses with drive-throughs into drive-through restaurants, and the expansion of hours of drive-through operations citywide. Staff is requesting additional time beyond the initial 45-day moratorium period to continue to evaluate appropriate regulatory components that can be included as part of future City code amendments including an update to the City's Zoning Code.

ATTACHMENTS

Attachment 1 – Ordinance

Attachment 2 – Ordinance No. 22-3,797 adopted October 4, 2022

Attachment 3 – Burbank Municipal Code Section 10-1-502

Attachment 4 – Burbank Municipal Code Section 10-1-1608 and 10-1-1609

Attachment 5 – Standards and Requirements on Drive-Through Establishments in
Surrounding Jurisdictions

Correspondences