

ANALYSIS

This ordinance extends for 10 months and 15 days to December 15, 2023, Interim Ordinance No. 2022-0065U, which requires a conditional use permit ("CUP") for the establishment of new drive-through establishments on all properties within the unincorporated communities of Avocado Heights, East Los Angeles, East Rancho Dominguez, Florence-Firestone, South San Jose Hills, Walnut Park, West Athens-Westmont, West Rancho Dominguez-Victoria, West Whittier-Los Nietos, West Carson, and Willowbrook, which communities are subject to the Green Zones Ordinance, to allow for the possible development of a permanent ordinance that would require a CUP for drive-through establishments, and provide additional standards, to regulate this land use. Interim Ordinance No. 2022-0065U, is scheduled to expire on February 3, 2023, unless extended pursuant to Government Code section 65858.

This extension ordinance is an urgency measure and requires a four-fifths vote by the Board of Supervisors for adoption.

It is the first extension of the interim ordinance allowed under Government Code section 65858.

DAWYN R. HARRISON
Interim County Counsel

By 
STARR COLEMAN
Assistant County Counsel
Property Division

SC:ss

Requested: 01-03-23

Revised: 01-03-23

ORDINANCE NO. 2023-0006U

An ordinance extending for 10 months and 15 days to December 15, 2023, Interim Ordinance No. 2022-0065U, which requires a conditional use permit ("CUP") for the establishment of new drive-through establishments on all properties within the unincorporated communities of Avocado Heights, East Los Angeles, East Rancho Dominguez, Florence-Firestone, South San Jose Hills, Walnut Park, West Athens-Westmont, West Rancho Dominguez-Victoria, West Whittier-Los Nietos, West Carson, and Willowbrook, which communities are subject to the Green Zones Ordinance, to allow for the possible development of a permanent ordinance that would require a CUP for drive-through establishments, and provide additional standards, to regulate this land use. Interim Ordinance No. 2022-0065U, is scheduled to expire on February 3, 2023, unless extended pursuant to Government Code section 65858.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. *Interim Regulations.*

A. No new drive-through establishment, as defined in this ordinance, shall be established within the unincorporated communities of Avocado Heights, East Los Angeles, East Rancho Dominguez, Florence-Firestone, South San Jose Hills, Walnut Park, West Athens-Westmont, West Rancho Dominguez-Victoria, West Whittier-Los Nietos, West Carson, and Willowbrook, without a Conditional Use Permit ("CUP"), pursuant to Chapter 22.158 (Conditional Use Permits).

B. The following standards shall apply to new drive-through establishments that require a CUP, pursuant to this ordinance, although the Review Authority may

modify standards 2, 3, 4, and 5 as part of the CUP, provided the Review Authority finds that such modification is not contrary to the determination of immediate threat described in Section 5, below:

1. General.

a. A maintenance plan shall be submitted as part of the CUP application, to the satisfaction of the Director of Regional Planning, and the drive-through establishment shall comply with the maintenance plan;

b. Hours of operation for the drive-through area shall be no earlier than 6:00 a.m. and no later than 12:00 a.m.; and

c. The required trash bin shall be enclosed by a decorative wall measuring at least five feet tall, but not more than six feet tall, and shall have solid doors.

2. Additional Standards for New Drive-Through Establishments

Adjacent to or Adjoining Sensitive Uses.

a. A minimum of a 10-foot setback shall be provided along the property lines adjacent to or adjoining sensitive uses.

b. The location of the drive-through area, including cashier microphone, speakers, and drive-through lane, shall be located at least 20 feet from the property line of any adjoining residentially-zoned lot, and speakers and lighted menus shall be oriented away from such lots; and

c. A buffer, which may include a six-foot solid wall, as depicted on the site plan, shall be provided to reduce noise trespass from the drive-through area to any adjoining residentially-zoned lot.

SECTION 2. Authority.

Interim Ordinance No. 2022-0065U was adopted on December 20, 2022. Unless this ordinance takes effect on or before February 3, 2023, Interim Ordinance No. 2022-0065U will expire. Section 65858 of the California Government Code provides that any urgency measure in the form of an interim ordinance may be extended, after notice pursuant to Government Code section 65090 and a public hearing, for 10 months and 15 days by a four-fifths vote of the Board of Supervisors. Government Code section 65858 further provides that such an interim ordinance may be extended, following compliance with that section, for an additional year. This is the first extension of the interim ordinance allowed under Government Code section 65858.

SECTION 3. Definitions and Penalties.

The definitions and penalties for land use violations that are prescribed in Title 22 of the County Code shall apply to the interpretation and violations of the provisions of this interim ordinance.

For purposes of this ordinance, the following definition shall apply:

"Drive-through establishment" shall mean a retail or service business where services may be obtained by motorists without leaving their vehicles. Examples include automated teller machines, banks, pharmacies, and food service establishments.

SECTION 4. Zoning Study to be Initiated, Updates to the Planning and Zoning Code Underway.

The Los Angeles County ("County") Department of Regional Planning ("Regional Planning") is in the process of conducting a comprehensive zoning study to determine the effects and appropriate regulation of drive-through establishments, which include increased traffic, trash, site design, pedestrian hazards, and noise and lighting, especially in the context of adjacent residences.

SECTION 5. Determination of Immediate Threat.

Prior to the adoption of Interim Ordinance No. 2022-0065U, the County's existing regulations did not satisfactorily address the safety impacts that these establishments have on the unincorporated communities, particularly those communities listed above, which are subject to the Green Zones Ordinance, where the health of residents have historically been disproportionately affected by surrounding land uses. The Green Zones Ordinance was adopted to promote environmental justice and improve the health and quality of life for residents living near incompatible land uses by mitigating the impacts of those uses. Drive-through establishments pose specific traffic and pedestrian hazards, including lines of vehicles that often extend across sidewalks and drive-ways onto public streets, which can result in significant traffic hazards, including unexpected stopping of vehicles, blind spots, unsafe lane changes to avoid lines of vehicles, hazards to pedestrians on sidewalks attempting to cross driveways, increased traffic on the streets impacted by the aforementioned lines of vehicles, as well as increased green-house gas emissions caused by vehicle idling. Additional concerns

include increased trash at and around the surrounding establishments, site design with respect to how the streets interface with the pedestrian environment, as well as noise and lighting, and the consideration of the adjacent residences. As Regional Planning further studies and considers changes to the current drive-through establishment regulations, the possibility of establishing new drive-through establishments during this interim period, which could ultimately be incompatible with any new regulations, constitutes a current and immediate threat to the public health, safety, and/or welfare, which can only be alleviated by the requirement of a CUP.

Unless this interim ordinance is extended, as provided for herein, an irreversible incompatibility of land uses might reasonably occur, as a result of the establishment of new drive-through establishments in those communities subject to the Green Zones Ordinance, all to the detriment of the public health, safety, and/or welfare. Accordingly, the Board of Supervisors finds that there is a current and immediate threat to the public health, safety, and/or welfare, and that establishment of new drive-through establishments without an approved CUP would result in that threat to the public health, safety, or welfare, absent implementation of the restrictions contained in this ordinance. If this interim ordinance is not extended, uses may be established that may be in conflict with public health, and incompatible with current land uses in those communities subject to the Green Zones Ordinance, and these uses may continue after any permanent redesignation of land uses or establishment of regulations that may occur.

SECTION 6. Severability.

If any provision of this interim ordinance or the application thereof to any person, property, or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance, which can be given effect without the invalid provisions or application, and, to this end, the provisions of the interim ordinance are hereby declared to be severable.

SECTION 7. Area of Applicability.

This ordinance applies to the unincorporated communities of Avocado Heights, East Los Angeles, East Rancho Dominguez, Florence-Firestone, South San Jose Hills, Walnut Park, West Athens-Westmont, West Rancho Dominguez-Victoria, West Whittier-Los Nietos, West Carson, and Willowbrook.

SECTION 8. Urgent Need.

This interim ordinance extension is urgently needed for the immediate preservation of public health, safety, and welfare, and it shall take effect on January 31, 2023, upon adoption, and it shall be of no further force and effect 10 months and 15 days after its effective date, unless extended in accordance with the provisions set forth in Government Code section 65858.

[GREENZONEDISTCOMMSCCC]

SECTION 9. This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.



A handwritten signature of "Janice Hahn" is written in cursive ink.

Chair

ATTEST:

A handwritten signature of "Celia Zavala" is written in cursive ink.

Celia Zavala
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that at its meeting of January 31, 2023 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

Ayes

Supervisors Hilda L. Solis
Holly J. Mitchell
Lindsey P. Horvath
Janice Hahn
Kathryn Barger

Noes

Supervisors None

Effective Date: January 31, 2023

Operative Date: _____

A handwritten signature of "Celia Zavala" is written in cursive ink.

Celia Zavala
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that pursuant to
Section 25103 of the Government Code,
delivery of this document has been made.

CELIA ZAVALA
Executive Officer
Clerk of the Board of Supervisors

By Celia Zavala
Deputy



APPROVED AS TO FORM:
DAWYN R. HARRISON
Interim County Counsel

By Nicole Davis Tinkham
Chief Deputy County Counsel