

ORDINANCE NO. 2019-1806-E2

AN INTERIM ORDINANCE SUSPENDING THE APPROVAL OF ADMINISTRATIVE PERMITS FOR CERTAIN LAND USES LOCATED ON PRIVATE ROADS, INCLUDING SPECIAL EVENT FACILITIES AND VACATION HOUSE RENTALS, AND INSTEAD REQUIRING CONDITIONAL USE PERMITS FOR THESE LAND USES WITHIN THE UNINCORPORATED AREA OF SOLANO COUNTY, ADOPTED AS AN URGENCY MEASURE

The Board of Supervisors of the County of Solano ordains as follows:

SECTION 1. Findings

- A. In 2010, through Ordinance No. 1713, the County of Solano amended its Zoning Regulations to require issuance of an administrative permit for certain uses allowed by right within the various zoning district. Uses subject to an administrative permit are allowed by right within the district rather than subject to a discretionary use permit, but the administrative permit enables the County to affirmatively verify that all standards and requirements applicable to the use, as described in Chapter 28 of the Solano County Code (Zoning Regulations) or elsewhere in the County Code, are met prior to commencement of the use.
- B. In 2012, as part of a comprehensive update to its Zoning Regulations (Ordinance No. 1726), the County expanded the types of land uses that required only an administrative permit rather than a conditional use permit.
- C. The approval of an administrative permit does not require public notice or public hearing, and is not subject to environmental review under the California Environmental Quality Act. When presented with a proper application, the Director of the Department of Resource Management has both the authority and the duty to issue an administrative permit if the evidence offered in support of the application establishes that all objective standards specified in the County Code for such use are satisfied.
- D. The administrative permit process has, in general, been beneficial to the residents of Solano County. However, after almost a decade of experience with the administrative permit process, the County sees a need to re-evaluate whether that process is appropriate for certain types of land uses in certain zoning districts, particularly commercial land uses on parcels in non-commercial zoning districts that have access only via private roads.
- E. Visitors to business facilities, including special event facilities and vacation house rentals, can reasonably expect that the access to the business facility meets current standards and is adequate for emergency vehicles. While the County's existing administrative permit standards generally require there to be a recorded road maintenance agreement for private roads providing access to commercial uses, the existence of such a maintenance agreement does not guarantee that the private road meets current County road standards or are properly maintained. The potential that a business facility may be approved to operate through an administrative permit process, even though it is located on substandard or inadequately maintained private road, presents a threat to the public health, safety, and welfare.
- F. The County has received, and continues to receive and process, administrative permit applications for business facilities whose sole route of access is via a private road. There is a current and immediate need for the County to impose access requirements on these uses that are more protective of the public health, safety, and welfare than is provided for in the County's existing administrative permit standards.

- G. The Department of Resource Management intends to study possible revisions to the County's administrative permit process, including the types of land uses subject to such a permit and the standards applicable to those land uses, and to present its recommendations to the Planning Commission for consideration at a public hearing.
- H. On October 22, 2019, the Board of Supervisors adopted Ordinance No. 2019-1806, an urgency interim ordinance suspending the approval of administrative permits for certain land uses located on private roads, including special event facilities and vacation house rentals, and instead requiring a conditional use permit for these land uses. On November 19, 2019, the Board adopted Ordinance No. 2019-1806-E extending the interim ordinance for 10 months and 15 days. The interim ordinance will expire on October 21, 2020, unless further extended prior to that date by a four-fifths vote of the Board of Supervisors after notice and hearing.
- I. It is appropriate to further extend Ordinance No. 2019-1806 to provide staff additional time to conduct the study described in these findings, and to provide time for public input and Planning Commission review of any proposed changes to the Zoning Regulations.
- J. An extension of the interim ordinance as an urgency measure is necessary for the immediate protection of the public health, safety, and welfare.

SECTION 2. Interim Prohibition on Certain Administrative Permits

From and after the date of enactment of this interim ordinance, and while this interim ordinance or any extension of it is in effect, the following types of land uses in the following zoning districts shall be subject to a minor conditional use permit if the property does not abut and have direct access to a County-maintained public road:

Land Use	Zoning Districts
Special Event Facility operated in conjunction with an Agricultural Processing Facility or a Winery, with 7-12 events per year and 150 persons maximum	A-20, A-40, A-80, A-160
Special Event Facility, not operated in conjunction with a winery or agricultural processing facility and with not more than 6 events per year and 150 persons maximum	A-20, A-40, A-80, A-160, A-SM-80, A-SM-160
Winery, medium (20,000 – 100,000 gal) with tasting and/or retail sales	A-20, A-40, A-80, A-160
Home Occupation, type II	A-20, A-40, A-80, A-160, A-SV-20
Agricultural Education Facility, minor	A-20, A-40, A-80, A-160

Certified Farmers Market, small	A-20, A-40, A-80, A-160
Vacation House Rental, hosted	A-20, A-SV-20, RR-2.5, RR-5, RR-10
Bakery, Café, or Restaurant (1,001 – 5,000 square feet)	A-SV-20
Bed and Breakfast Inn	A-SV-20
Gallery	A-SV-20
Tasting Facility	A-SV-20
Temporary Agritourism, including amusement or entertainment uses, farmer's markets, and seasonal sales lots	A-SV-20

As provided in section 28.106(H) of the Solano County Code, a minor use permit shall not be approved for any of these uses unless the Zoning Administrator first makes the three general findings described in that section. In determining whether the use will have adequate road access, the Zoning Administrator shall consider whether the private road providing access to the property meets current County road standards and, where applicable, CalFire's SRA Fire Safe emergency access and egress regulations (14 Cal. Code Regs., § 1273.00 et seq.).

The standards otherwise applicable to such uses for issuance of an administrative permit shall also remain in effect to the greatest extent possible, but the Zoning Administrator shall exercise discretion and consider public input when deciding whether the standards are satisfied in each case.

SECTION 3. Pending Applications

Any application for administrative permits for any of the uses and in the zoning districts identified in Section 2 of this ordinance that was complete as of the date this ordinance originally became effective, and for which the County has not taken a final action, shall be processed and acted upon as an application for a minor conditional use permit, without additional fee or charge to the applicant, except as follows: If the County determines that the use being applied for is not exempt from the California Environmental Quality Act ("CEQA"), the applicant shall reimburse the County for the County's costs of CEQA compliance.

SECTION 4. Effective Period

This interim ordinance is extended for a period of one year and shall expire on October 21, 2021 unless rescinded or superseded prior to that date by the Board of Supervisors.

SECTION 5. Authority

California Government Code section 65858 provides that an urgency measure in the form of an initial interim ordinance may be adopted by a four-fifths vote of the board of supervisors, which shall be effective for only 45 days following its date of adoption. Government Code section 65858 further provides that such an urgency measure may be extended following compliance with that section for an additional 10 months and 15 days beyond the original 45-day period, and subsequently extended for an additional year.

SECTION 6. Penalties

The definitions and penalties for land use violations that are prescribed in Chapter 28 of the Solano County Code shall apply to violations of the provisions of this interim ordinance.

SECTION 7. Severability

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

PASSED AND ADOPTED by the Solano County Board of Supervisors at its regular meeting on October 6, 2020 by the following vote:

AYES: SUPERVISORS: _____

NOES: SUPERVISORS: _____

EXCUSED: SUPERVISORS: _____

ERIN HANNIGAN, Chairwoman
Solano County Board of Supervisors

ATTEST:
BIRGITTA E. CORSELLO, Clerk
Solano County Board of Supervisors

By: _____
Alicia Draves, Chief Deputy Clerk