

CITY OF FAIRFIELD

ORDINANCE NO. 2020-18

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIRFIELD
AMENDING SECTION 25.28.7.K OF THE FAIRFIELD CITY CODE TO AMEND
THE INTERIM USE PERMIT REGULATIONS FOR NONCONFORMING LAND
USES IN THE TRAIN STATION SPECIFIC PLAN AREA**

**THE CITY COUNCIL OF THE CITY OF FAIRFIELD DOES ORDAIN AS
FOLLOWS:**

SECTION 1. Findings. The City Council finds as follows:

A. The proposed amendment to the Zoning Ordinance is in conformity with the General Plan and Train Station Specific Plan based upon analysis contained in the staff reports for the Planning Commission and City Council.

B. The proposed amendments to the Planned Development Zone District establish regulations to address nonconforming uses. The regulations are intended to allow nonconforming uses to continue to operate, or be introduced, only to such time as they impede the development of adjacent properties or affect the public health, safety and welfare of residents in the area.

C. No new uses proposed or permitted in this Planned Unit Development Zoning Ordinance will be allowed to create objectionable or injurious impacts to property located in the vicinity by reason of odor, fumes, dust, smoke, cinders, glare, unsightliness, traffic congestion, fire or explosion except as mitigated through the Mitigation Monitoring and Reporting Program of the Specific Plan EIR, the Specific Plan and the development standards and regulations contained in the Fairfield Zoning Ordinance and this Planned Unit Development Zoning Ordinance.

SECTION 2. Subsection E within Section 25.28.7.K, "Train Station Specific Plan PD Overlay District" of the Fairfield Zoning Ordinance is hereby amended as follows, with additions in underline and deletions in strikethrough text:

E. Nonconforming Uses

Notwithstanding any provisions of the Zoning Ordinance of the City of Fairfield, the following provisions shall regulate those uses which are not consistent with the land use designations of the Train Station Specific Plan and the Train Station Specific Plan Planned Development Overlay Zone District.

1. A use which had been legally established in an unincorporated area under Solano County jurisdiction as a permitted use or through a land use permit with a condition of approval without an expiration date, and which is in existence at the time of its annexation to the City shall become a legal

nonconforming use. All such nonconforming uses shall have the right to continue to operate subject to compliance with the conditions of approval adopted by the County and shall be subject to the nonconforming use and structure provisions of Section 25.46 of the Zoning Ordinance of the City of Fairfield.

2. A use which is in existence at the time of its annexation and which had been legally established in an unincorporated area under Solano County jurisdiction through a land use permit with a condition of approval with an expiration date, shall have the right to continue to operate during the term of its County permit as a legal nonconforming use. All such nonconforming uses shall have the right to continue to operate subject to compliance with the conditions of approval adopted by the County and shall be subject to the nonconforming use and structure provisions of Section 25.46 of the Zoning Ordinance of the City of Fairfield. Upon expiration of the term of the land use permit, the use shall have no legal right to continue to operate and shall cease operation on the date of expiration of its term.

Notwithstanding the above, the City may allow such use to continue after annexation as an interim use subject to the Final Approval of an interim use permit subject to the requirements as follows:

- a. Property owner files an application for an interim use permit in accordance with the provisions of Section F below within one year of the effective date of Ordinance 2020-018.
 - b. Property owner agrees to make an irrevocable offer of dedication of the abutting right-of-way if the property abuts Cement Hill Road, Peabody Road and or Vanden Road.
 - c. Provisions to guarantee the termination of the use upon expiration of the interim use permit.
3. A use in existence at the time of its annexation to the City and which had been legally established under Solano County jurisdiction through a land use permit with a condition of approval which causes the permit to expire or become null and void upon annexation to the City, shall be subject to the following regulations:
 - a. Each use shall have the legal right to continue to operate in accordance with its County land use permit conditions for a period of one year after the date of annexation to the City.
 - b. Within one year of the effective date of Ordinance 2020-018, each property owner and permittee with an expiring or expired County land use permit must file an Interim Use Permit application with the City.

- c. Any use which does not obtain approval of its interim use permit application shall have no legal right to continue to operate and shall cease operation.
4. A use in existence at the time of annexation which was not legally established under Solano County jurisdiction shall not be classified as a legal, nonconforming use and shall have no rights to continue to operate pursuant to this section. Any continuation of such use subsequent to annexation to the City shall be in violation of the Zoning Ordinance and the Train Station Specific Plan Planned Development Overlay Zone District Ordinance. All such uses shall cease immediately upon annexation to the City.

Notwithstanding the above, the City may allow such use to continue after annexation as an interim use subject to the Final Approval of an interim use permit subject to the requirements as follows:

- a. Property owner files an application for an interim use permit in accordance with the provisions of Section F below within six months of the effective date of this Ordinance.
- b. Property owner agrees to make an irrevocable offer of dedication of the abutting right-of-way if the property abuts Cement Hill Road, Peabody Road and or Vanden Road.
- c. Provisions to guarantee the termination of the use upon expiration of the interim use permit.
5. If a use was not legally established or is operating in violation of the Solano County Zoning Ordinance, notwithstanding the provisions of subsection 4 above, the City may allow such use to continue, or be introduced, after annexation as an interim use subject to the Final Approval of an interim use permit, provided the owner of property and the City have entered into a settlement agreement or similar agreement. The terms of such agreement shall include but are not limited to the following:
 - a. Property owner agrees to file an application for an interim use permit in accordance with the provisions of Section F.
 - b. Property owner agrees to make an irrevocable offer of dedication of the abutting right-of-way if the property abuts Cement Hill Road, Peabody Road and or Vanden Road.
 - c. Provisions to guarantee the termination of the use upon expiration of the interim use permit.

- d. For nonconforming uses that are introduced on an interim basis, property owner agrees to make an irrevocable offer of dedication for internal streets and detention basins as depicted in Figure 1-2 of the Train Station Specific Plan or any approved Master Planned Unit Development Permit that includes the subject property.

SECTION 3. Subsection F within Section 25.28.7.K, “Train Station Specific Plan PD Overlay District” of the Fairfield Zoning Ordinance is hereby amended as follows, with additions in underline and deletions in strikethrough text:

F. Interim Land Uses

1. Purpose. The Train Station Specific Plan area contains existing uses established under Solano County jurisdiction which are not consistent with the land uses allowed by the Specific Plan. The purpose of this section is to allow those nonconforming uses to continue or be introduced for a limited duration following annexation, or similar uses otherwise not permitted by the Specific Plan, provided they will not impede development of land uses allowed by the Train Station Specific Plan.
2. Interim Use Permit. An interim use permit is a discretionary permit which, if approved, would allow the continued operation and limited expansion of nonconforming uses, or similar uses otherwise not permitted, which would otherwise be required to cease operation upon annexation to the City. A property owner is eligible to apply for an interim use permit only if the property meets the criteria in Subsection E.3 or E.5 above.
3. Application Requirements. The application contents and application fee shall be those in effect for a Conditional Use Permit, in accordance with Section 25.41.3 and 25.41.4 of the Fairfield Zoning Ordinance.
4. Approval Authority. An interim use permit shall be subject to approval of the Community Development Director. Notice of pending consideration of an interim use permit shall be provided in the same manner as a Conditional Use Permit.
5. Preliminary Approval.
 - a. A granting of Preliminary Approval of an interim use permit by the Community Development Director shall contain conditions of approval which include but are not limited to the following:
 - i. No site improvements shall be allowed except those required to comply with a condition of approval of an interim use permit.

- ii. Conditions related to the use of the property and operational characteristics, including but not limited to intensity of the use, hours of operation, lighting, noise, and vehicular access.
 - iii. If the property abuts Cement Hill Road, Peabody Road and or Vanden Road, the property owner shall make an irrevocable offer of dedication to the City of the additional right-of-way along its frontage which is needed to widen the road in accordance with the standards of Chapter 10 of the Specific Plan.
 - iv. The duration of the interim use permit.
 - v. An agreement between the City and the property owner and the interim use permit applicant which includes provisions to guarantee the termination of the use upon expiration of the interim use permit.
- b. The Community Development Director may grant a Preliminary Approval of an interim use permit if the Director finds and determines that:
- i. The continuation or introduction of the interim use during the duration of the interim use permit will not impede the development of other properties in the vicinity in accordance with the Specific Plan;
 - ii. The prevailing economic conditions do not support development of the property in accordance with the Specific Plan, during the duration of the interim use permit; and
 - iii. The conditions of approval related to the use of the property and its operational characteristics will not impede the development of other properties in the vicinity in accordance with the Specific Plan or affect the health, safety and welfare of residents or businesses in the vicinity.
6. Final Approval. The Community Development Director shall grant Final Approval of a preliminary interim use permit when he/she determines that the permittee and property owner have complied with all the conditions of approval of the Preliminary Approval.
7. Interim Use Permit Term and Extension.
- a. The term of an interim use permit shall be determined through the conditions of Preliminary Approval. The duration of the term shall be determined by Community Development Director, based on the findings in subsection 5.b above.
 - b. The minimum initial term of an interim use permit shall be one year.

- c. A permittee and property owner may file an application to extend the term of an interim use. A request for extension shall be processed in the same manner as an interim use permit application and subject to the same findings.
8. Revocation. If the Community Development Director determines that a use is not operating in compliance with the conditions of approval of its interim use permit, he/she shall provide to the property owner and permittee a written notice of intent to revoke the interim use permit. The written notice shall be sent not less than ten (10) calendar days prior to the date of the administrative hearing. At the conclusion of the hearing, the Community Development Director may revoke or modify the conditions of approval of the interim use permit if the Director finds that the use is not operating in compliance with the conditions of approval.

SECTION 4. The City Council hereby finds and determines that the proposed Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, as there is no possibility that it will have a significant adverse effect on the environment. The Ordinance consists of minor amendments to the Zoning Code to allow for the possible continuance or introduction of nonconforming uses on an interim basis, but does not entitle any such use. A potential project enabled under the amendments would be required to first obtain an Interim Use Permit from the City and would be subject to environmental review in accordance with CEQA. Accordingly, adoption of the Ordinance does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. The City Council further finds that the proposed Ordinance to the Zoning Ordinance are exempt under CEQA Guidelines Section 15301, which exempts permitting or minor alterations to existing facilities involving negligible or no expansion of existing or former use, and under Section 15305, which exempts minor alterations in land use limitations in areas with an average slope of less than 20% which do not result in any changes in land use or density.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 6. This Ordinance shall be effective 30 days following its adoption by the City Council. A summary of this Ordinance shall, within fifteen (15) days after passage, be published in accordance with Section 36933 of the Government Code of the State of California with the names of the City Council members voting for and against it.

INTRODUCED at a regular meeting of the City Council of the City of Fairfield on the 15th day of September, 2020, and

PASSED AND ADOPTED this 20th day of October, 2020, by the following vote:

AYES: Councilmembers: PRICE / BERTANI / MOY / TIMM / VACCARO

NOES: Councilmembers: _____

ABSENT: Councilmembers: _____

ABSTAIN: Councilmembers: _____

MAYOR

ATTEST:

CITY CLERK