



## CITY OF GLENDALE, CALIFORNIA REPORT TO THE CITY COUNCIL

### AGENDA ITEM

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Report: Extension of Interim Urgency Ordinance No. 5994 Prohibiting Developments with New and Conversion of Existing Drive-through Waiting Lanes Citywide

1. Adoption of Ordinance Extending, for an Additional 10 Months and 15 Days, Interim Urgency Ordinance No. 5994 Prohibiting Developments with New and Conversion of Existing Drive-through Waiting Lanes Citywide

### COUNCIL ACTION

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**Item Type:** Public Hearing

**Approved for** November 1, 2022 **calendar**

### EXECUTIVE SUMMARY

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On September 27, 2022, Council adopted an interim urgency ordinance imposing a 45-day moratorium on the approval of any developments with new and conversion of existing drive-through waiting lanes throughout the City, with no exemptions for projects that had received some level of discretionary review (return for redesign from the Design Review Board) prior to the effective date of the ordinance. Previously, on September 20, 2022, Council adopted a motion directing staff to engage in a policy analysis to be executed in 2023 to study drive-through waiting lane impacts and demand, and potential modifications to the development standards applicable to drive-through waiting lane proposals. The moratorium on drive-through waiting lane projects was necessary in order to put a pause on such applications to allow time for the City to undertake and complete such a study and make recommendations to Council for potential amendments to the Zoning Code. A report is attached as an exhibit to this staff report detailing the actions that have been taken thus far to alleviate conditions leading to imposition of the moratorium, as required by law. The ordinance adopted on September 27 expires on November 11, 2022, unless extended by Council following a noticed public hearing. Such hearing was noticed for October 25, 2022; after the hearing is conducted, Council may introduce the ordinance to extend the moratorium for an additional 10 months and 15 days beyond its initial expiration. If introduced, Council must vote on whether to adopt the ordinance at the next meeting of November 1, 2022. Council may thereafter extend the moratorium for one additional year. Any extension of an interim ordinance requires a 4/5<sup>th</sup> vote of Council.

## **COUNCIL PRIORITIES**

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**Infrastructure and Mobility/Connectivity/Safety:** The moratorium is consistent with Council's desire to have a well-planned and comprehensive transportation system that is a safe, efficient and well-coordinated multi-modal circulation system that focuses on enhancing roadway safety through effective engineering, enforcement and education to the public.

## **RECOMMENDATION**

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That the City Council adopt the ordinance, extending, for 10 months and 15 days, Interim Urgency Ordinance No. 5994 adopted on September 27, 2022, related to a moratorium on new and conversion of existing drive-through waiting lanes.

## **BACKGROUND**

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On September 20, 2022, Council directed staff to undertake a study seeking to understand potential physical, social and environmental impacts of new and existing drive-through waiting lane developments in the City by type (i.e., fast food, banks, pharmacies, etc.), the impact of the current design, development and other land use standards and requirements on such development, including, but not limited to, whether there is a need for additional types of drive-through waiting lane development (such as fast food restaurant drive-throughs) in the City. As a result of initiating such a study, which may lead to amended Zoning Code development standards in the future, on September 20, 2022, the Council introduced and subsequently, on September 27, 2022, adopted, an interim urgency ordinance to prohibit new and existing drive-through waiting lane developments citywide. Council elected to not to exempt certain pipeline projects from the effects of the ordinance – those that received a return for redesign determination from the Design Review Board, prior to the effective date of the ordinance. The interim ordinance adopted on September 27 is only effective for 45 days by law, and automatically expires on November 11, 2022, but can be extended twice after notice and public hearing – once for an additional 10 months and 15 days, and once more for an additional year.

If Council extends the moratorium for an additional 10 months and 15 days, during the extended moratorium period, Planning staff will continue to take all necessary steps to commence the drive-through waiting lane study, and return to Council with a report and findings once the study is completed, for Council consideration. It is important to note that even if Council does not vote to extend the moratorium, Planning staff will nonetheless continue to undertake the Council's directive to undertake the study regarding drive-through waiting lane use/development standards.

## **ANALYSIS**

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Under California Government Code section 65858, a city may adopt an interim ordinance to temporarily prohibit certain land uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the city council is considering or intends to study within a reasonable time. The purpose of such an interim ordinance is to give the City time to maintain the status quo and prohibit the issuance of entitlements or permits that would be in conflict with new contemplated standards. The rationale for

an urgency ordinance that takes immediate effect is to prevent a “rush to the counter” of applications to establish new uses before standards can be put in place. The delay in permits allows the city to subject all new uses to the new standards.

Urgency interim ordinances under Government Code section 65858 require adoption by 4/5<sup>ths</sup> vote of the Council and expire within 45 days, unless extended in the manner described below. An urgency ordinance may only be adopted if the Council finds that there is a current and immediate threat to the public health, safety and welfare, and that the approval of additional entitlements, permits and other approvals would result in a threat to that public health, safety or welfare. On September 27, 2022, the Council adopted Interim Urgency Ordinance No. 5994, with the required findings, that imposed a 45-day moratorium on new and conversion of existing drive-through waiting lanes development projects citywide. This ordinance automatically expires on November 11, 2022, unless extended prior to that date. At least ten days prior to the expiration of the ordinance or any extension thereof (by November 1, 2022), the City must prepare and issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance. As required by law, this ten-day report has been prepared and is attached as an exhibit to this staff report for Council’s review, consideration and comment.

Ordinance No. 5994 may be extended for a period not to exceed 10 months and 15 days following a noticed public hearing. A public hearing has been noticed for October 25, 2022, and after the hearing is conducted, Council may introduce the ordinance to extend the moratorium. If introduced, the Council must vote on whether to adopt the ordinance at the next Council meeting of November 1, 2022. The Council may thereafter extend the moratorium for one additional year. Any extension of an interim ordinance also requires a 4/5<sup>ths</sup> vote of the Council.

An ordinance extending Interim Urgency Ordinance No. 5994 an additional 10 months and 15 days has been included for introduction, which may occur following the public hearing. The ordinance contains no “pipeline provision” as Interim Urgency Ordinance No. 5994, but Council may introduce this extension ordinance with different, additional or revised exemptions.

## **STAKEHOLDERS/OUTREACH**

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Stakeholder and public outreach would be conducted during any policy studies regarding the demand and effect of new or conversion of existing drive-through waiting lane standards and/or processes. This includes any businesses that would be impacted by this change, as well as residents and adjacent neighborhoods to understand impacts to quality of life.

## **FISCAL IMPACT**

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The action of placing a moratorium on future drive-through waiting lanes has no direct costs or financial benefits associated with it. Indirectly, the City would not gain the sales tax and associated permit fees that would flow from future drive-through waiting lane developments.

## **ENVIRONMENTAL REVIEW**

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Community Development Department staff have evaluated the potential environmental effects of adoption of the proposed Interim Ordinance temporarily barring new or conversion of existing drive-through waiting lanes within the City of Glendale within the meaning of and pursuant to CEQA, and have concluded that this action is consistent with classes of projects that do not have a significant effect on the environment, and thereby qualify for a Categorical Exemption pursuant to CEQA Guidelines Sections 15061(b)(3), 15307, and 15308; the action is therefore exempt from further environmental review or the preparation of an environmental document.

## **CAMPAIGN DISCLOSURE**

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This item is exempt from campaign disclosure requirements.

## **ALTERNATIVES**

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1. Introduce and subsequently adopt an ordinance extending, for 10 months and 15 days, a moratorium on all development projects containing new or conversion of existing drive-through waiting lanes citywide;
2. Decline to introduce an ordinance extending, for 10 months and 15 days, a moratorium on all development projects containing a new or conversion of existing drive-through waiting lanes citywide;
3. Choose any other alternative not proposed by staff.

## **ADMINISTRATIVE ACTION**

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### **Submitted by:**

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### **Prepared by:**

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Yvette Neukian, Principal Assistant City Attorney

### **Reviewed by:**

Jason Bradford, Director of Finance/Information Services

Michael J. Garcia, City Attorney

### **Approved by:**

Roubik R. Golanian, P.E., City Manager

## **EXHIBITS / ATTACHMENTS**

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Exhibit 1      Interim Urgency Ordinance No. 5994 Prohibiting Issuance of Entitlements and/or Permits for Developments with New or Converted Drive-through Waiting Lanes in the City and Declaring the Urgency Thereof;

Exhibit 2      Report on Actions Taken to Alleviate Conditions Leading to Imposition of  
Moratorium.