

ORDINANCE NO. 2024-11

AN INTERIM URGENCY ORDINANCE OF THE CITY OF HESPERIA, CALIFORNIA, ENACTED PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 EXTENDING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT OR EXPANSION OF WOODEN PALLET STORAGE YARDS WITHIN CITY LIMITS DURING THE PENDENCY OF THE CITY'S REVIEW AND ADOPTION OF PERMANENT ZONING REGULATIONS FOR SUCH USES

WHEREAS, the City of Hesperia has the authority and responsibility to protect the public health, safety, and welfare of the City, and is responsible for adopting and implementing land use regulations within its boundaries; and

WHEREAS, the Hesperia Municipal Code lacks specific regulatory and zoning standards to assure that wooden pallet storage yards do not adversely affect the health, welfare, and safety of the public; and

WHEREAS, the issuance of permits for wooden pallet storage yards without having zoning and regulatory standards in place, threatens the public, health, safety, and welfare of the public for the following reasons:

Fire Risk: Wooden pallet storage yards present an obvious fire hazard due to the storage of large quantities of wood, a combustible material, at a single site. Within the past few years there have been multiple fires associated with pallet yards in nearby cities that have caused millions of dollars in losses.

Stacking Hazards: Pallet storage yards often store wooden pallets in high stacks. Without adequate regulation of the location, height and volume of these stacks, or the separation between these stacks, the health, safety, and welfare of the public may be endangered. The improper or unsafe stacking of wood pallets may be a falling risk, endangering employees and visitors to these sites, or may become a fire hazard, endangering the general public and neighboring properties.

WHEREAS, Government Code Sections 36934, 36937 and 65858 expressly authorize the City Council to adopt an urgency ordinance for the immediate preservation of the public peace, health, or safety and to prohibit a use that is in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission, or the planning department is considering or studying or intends to study within a reasonable time; and

WHEREAS, on August 20, 2024, the City Council adopted Interim Urgency Ordinance No. 2024-10 establishing a 45-day moratorium on the establishment or expansion of wooden pallet yards within the City pending study and adoption of zoning and regulatory standards to protect the public health, safety, and welfare; and

WHEREAS, the City intends to study the issues associated with pallet yards including new development standards that may be imposed on their operation to mitigate any potential impacts. This could include evaluating all land use districts in which pallet yards are permitted for suitability

and evaluating development standards and best practices from other jurisdictions to determine if they would be appropriate City wide; and

WHEREAS, after undertaking this study, the City intends to enact regulations specific to pallet storage yards. The City intends to undertake the required study within a reasonable time. In the interim, the City Council finds it necessary to establish a moratorium on the development of new wooden pallet storage yards or the expansion of existing pallet yards in order to prevent a conflict with the contemplated new policies or regulations; and

WHEREAS, because the Interim Urgency Ordinance No. 2024-10 expires on October 4, 2024, the City desires to extend the moratorium for ten months (10) and fifteen (15) days from the date of expiration to prohibit the development of new wooden pallet yards or the expansion of existing wooden pallet yards within the City limits in order to complete a proposed development code amendment that will create new development regulations and development standards for pallet yards; and

WHEREAS, continued approval of entitlements, building permits, or other approvals for new or expanded wooden pallet storage yards poses a current and immediate threat to the public health, safety, or general welfare. There is therefore an urgent necessity for the City to establish a moratorium on the establishment or expansion of wooden pallet storage yards to take effect immediately;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HESPERIA DOES HEREBY ORDAIN AS FOLLOWS.

SECTION 1. FINDINGS

The City Council finds the facts set forth in the recitals in this Urgency Ordinance are true and correct and are hereby incorporated by reference. Additionally, based on the foregoing, both verbal and written testimony at the public hearing, including the staff report, exhibits, and any materials provided by members of the public, the City Council finds as follows:

- A. This Ordinance is being adopted in order to allow the City time to thoroughly study and develop the City's laws, rules, procedures, and fees related to the operation and establishment of pallet storage yards, to adequately and appropriately balance the rights of existing operators and future applicants who wish to establish or expand pallet storage yards in the City, and to adequately and appropriately preserve the health, safety, and welfare of the community in the City of Hesperia.
- B. The City finds that in the absence of a regulatory framework to govern pallet storage yards, the adverse impacts frequently associated with pallet storage yards likely will occur, resulting in unregulated and significant negative impacts upon the public health, safety, and welfare of the community.
- C. The City finds that the adverse impacts from pallet storage yards include the following:
 - (1) Fire Risk: Wooden pallet storage yards present an obvious fire hazard due to the storage of large quantities of wood, a combustible material, at a single site. Within the past few years there have been multiple fires associated with pallet yards in nearby cities that have caused millions of dollars in losses.

(2) Stacking Hazards: Pallet storage yards often store wooden pallets in high stacks. Without adequate regulation of the location, height and volume of these stacks, or the separation between these stacks, the health, safety, and welfare of the public may be endangered. The improper or unsafe stacking of wood pallets may be a falling risk, endangering employees and visitors to these sites, or may become a fire hazard, endangering the general public and neighboring properties.

- D. The City needs time to draft a proposed development amendment to the Zoning Code to preserve the health, safety, and welfare of the community in the City of Hesperia with respect to the operation of pallet storage yards.

SECTION 2. **AUTHORITY AND EFFECT**

The State Planning and Zoning Law (Cal. Gov't Code Sections 65000, *et seq.*) broadly empowers the City to plan for and regulate the use of land in order to provide for orderly development, the public health, safety, and welfare, and a balancing of property rights and the desires of the community and how its citizens envision their city.

SECTION 3. **MORATORIUM**

A. During the Effective Period of this Ordinance, as specified below, no permit shall be issued for any development of any wooden pallet storage yard, nor may a permit be issued for the expansion of wooden pallet storage yard within the City. The foregoing shall explicitly prohibit the issuance of any zoning, land use, discretionary permit, building permit, environmental approval, business license, or any other entitlement involving businesses defined as a wooden pallet storage yard, during the Effective Period.

B. Notwithstanding the foregoing, any existing pallet storage yard shall be allowed to obtain their annual City of Hesperia business license. Additionally, permits may be issued for minor construction, rehabilitation and landscaping or other purposes not involving an expansion of building area. Any pallet storage yard under construction with a valid building permit or any pallet storage yard approved by the Development Review Committee or Planning Commission on the effective date of this Urgency Ordinance shall be exempt from this Urgency Ordinance.

SECTION 4. **STUDY AND DEVELOPMENT**

During the period of this Ordinance, the City shall study and develop as necessary City laws, rules, procedures, and fees related to pallet storage yards, to enable the City to preserve the health, safety, and welfare of the community adequately and appropriately in the City of Hesperia. Pursuant to Government Code Section 65858 the Planning Manager will issue a report for the legislative body on what has been accomplished during the moratorium before it expires or is extended.

SECTION 5. **URGENCY MEASURE**

It is hereby declared that this Ordinance is necessary as an urgency measure for the preservation of the public health, safety, and welfare. The City Council finds that current zoning regulations and land use plans do not adequately regulate the establishment and operation of pallet storage yards and therefore do not adequately protect the peace, health, safety, and general welfare of the residents of the City or in communities around the City. The City Council

finds the urgency measure is necessary, in order, to ensure adequate regulation of the operation of pallet storage yards. The facts constituting the urgency are:

- The City's Municipal Code currently lacks regulatory and zoning standards to assure that wooden pallet yards do not adversely affect the health, safety, and welfare of the public.
- The negative impacts frequently associated with operation of pallet storage yards will likely increase as pallet yards continue to proliferate throughout the City, resulting in an unregulated and significant negative impact upon public health, safety, and welfare of the community.
- Pallet storage yards are likely to seek to be located in the City based on the lack of explicit regulations, which will further exacerbate the impacts of such businesses.
- As a result of the negative and harmful effects associated with improperly regulated or unregulated operation of pallet storage yards, the current and immediate threat such effects pose to the public health, safety, and welfare, it is necessary extend the moratorium on the establishment of new, or the expansion of existing pallet storage yards in the City for an additional ten (10) months and fifteen (15) days from the expiration of the Interim Urgency Ordinance No. 2024-10 on October 4, 2024 to August 19, 2025.
- A moratorium is immediately required to preserve the public health, safety, and welfare and should be adopted immediately as an urgency ordinance, to make certain that the establishment and expansion of pallet storage yards are prohibited for the period of this Ordinance. Imposition of a moratorium will allow the City sufficient time to conclude the preparation of a comprehensive ordinance for the regulation of such activities.

SECTION 6. **SEVERABILITY**

The City Council hereby declares, if any provision, section, subsection, paragraph, sentence, phrase or word of this Ordinance is rendered or declared invalid or unconstitutional by any final action in a court of competent jurisdiction or by reason of any preemptive legislation, then the City Council would have independently adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases or words of this Ordinance and as such they shall remain in full force and effect.

SECTION 7. **CEQA COMPLIANCE**

Pursuant to the California Environmental Quality Act Guidelines ("CEQA," California Code of Regulations Title 14, §§ 15000 *et seq.*), this Interim Urgency Ordinance is exempt from CEQA based on the following: (i) this Ordinance is not a project within the meaning of CEQA Section 15378 because it has no potential for resulting in physical change to the environment, either directly or indirectly and (ii) this Ordinance is also exempt pursuant to CEQA Section 15061(b)(3) since the proposed ordinance involves an Interim Urgency Ordinance establishing a ten (10) month and fifteen (15) day temporary moratorium on the establishment of pallet storage yards and thus there is no possibility that the proposed ordinance may have a significant effect on the environment.

SECTION 8. **EFFECTIVENESS OF ORDINANCE.**

This Ordinance shall take effect immediately upon its adoption by a 4/5 vote, pursuant to the authority conferred upon the City Council by Government Code Sections 36934, 36937, and 65858. This Ordinance shall be effective during the Effective Period which shall be upon the expiration date of Interim Urgency Ordinance No. 2024-10 on October 4, 2024, and shall be of no further force and effect ten (10) months and fifteen (15) days therefrom, on August 19, 2025, unless extended in accordance with the provisions set forth in Government Code Section 65858(b).

SECTION 9. **PUBLICATION**

The City Clerk shall certify as to the passage and adoption of this Interim Urgency Ordinance and shall cause the same to be published in a manner prescribed by law.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Hesperia, California, at a regular meeting held on this 17th day of September 2024.

Larry Bird, Mayor

ATTEST:

Erin Baum, Assistant City Clerk