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AGENDA

SPECIAL MEETING OF THE PLANNING COMMISSION

February 18, 2026 at 7:00 p.m.

Hana Gardens
10870 San Pablo Avenue
El Cerrito, CA 94530

7:00 p.m. CONVENE REGULAR MEETING

- 1. ROLL CALL** – Chair Joy Navarrete; Vice Chair Erin Gillett; Members Daniel Hamilton, Courtney Helion, Cara Houser, Michael Norwood, and Nathan Tinclair
- 2. COUNCIL/STAFF LIAISON ANNOUNCEMENTS AND REPORTS**
The City Council Liaison or City staff may report on matters of general interest to the Planning Commission, Council policies, priorities and significant actions taken by the City Council.
- 3. ORAL COMMUNICATIONS FROM THE PUBLIC**
Remarks are typically limited to three minutes per person, and may be on anything within the subject matter jurisdiction of the body. Remarks on non-agenda items will be heard first. Remarks on agenda items will be heard at the time the item is discussed.
- 4. ADOPTION OF MINUTES**
Adoption of the November 19, 2025 meeting minutes.
- 5. COMMISSIONER COMMUNICATION/CONFLICT OF INTEREST DISCLOSURE**
This time on the agenda is reserved for Commissioners to disclose communications from individuals regarding specific agenda items or to state a potential conflict of interest in relation to a specific agenda item.
- 6. PUBLIC HEARING: Outdoor Dining Uses and Retail Sales Ordinance**
Applicant: City of El Cerrito

Location: Citywide
Request: Planning Commission consideration of a recommendation to the City Council for adoption of the Outdoor Dining Uses and Retail Sales Ordinance.
CEQA: Exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3)..

7. STAFF COMMUNICATIONS

Informational reports on matters of general interest, presented by City staff.

8. ADJOURNMENT

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Staff Liaison, (510) 215-4330. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title I).

Any writings or documents provided to a majority of the members regarding any item on this agenda will be made available for public inspection at 10890 San Pablo Avenue El Cerrito, CA 94530 during normal business hours.



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DRAFT MINUTES

REGULAR MEETING OF THE PLANNING COMMISSION

November 19, 2025 at 7:30 p.m

City Council Chambers, El Cerrito City Hall
10890 San Pablo Avenue
El Cerrito, CA 94530

7:30 p.m. CONVENE REGULAR MEETING

- 1. ROLL CALL** – Vice Chair Erin Gillett; Members Cara Houser, Michael Norwood, and Nathan Tinclair.
Members Courtney Helion, Daniel Hamilton, and Joy Navarrete had an excused absences.
- 2. COUNCIL/STAFF LIAISON ANNOUNCEMENTS AND REPORTS**
Nothing was reported.
- 3. ORAL COMMUNICATIONS FROM THE PUBLIC**
No speakers addressed the Commission.
- 4. ADOPTION OF MINUTES**
Moved/Second: Member Tinclair/Norwood **Action:** Passed a motion to adopt the October 15, 2025 meeting minutes.
Ayes: Gillett, Houser, Norwood, Tinclair
Noes: None
Abstain: None
Absent: Hamilton, Helion, Navarrete
- 5. COMMISSIONER COMMUNICATION/CONFLICT OF INTEREST DISCLOSURE**
Nothing was disclosed.

6. PUBLIC HEARING: 1532 Richmond Street – Use Permit

Application: PL25-0017
Applicant: Anna Misharina
Location: 1532 Richmond St
APN: 502-290-005
Zoning: RS-5 (Single Family Residential)
General Plan: Low Density Residential
Request: Planning Commission consideration of a Conditional Use Permit request for exceeding building envelope requirements for a second story addition and an expansion of a non-conforming setback to a single-family house (ECMC Section 19.06.030.D and ECMC Chapter 19.34).
CEQA: This project is categorically exempt from the provisions of CEQA pursuant to Section 15301 of the CEQA Guidelines, Class 1: Existing Facilities.

Associate Planner Diego Romero presented the staff report and answered questions from the Commission.

The applicant, presented the project and answered questions from the Commission.

The public hearing was opened.

No speakers addressed the Commission.

The public hearing was closed.

Moved/Second: Member Norwood/Houser **Action:** Passed a motion to approve a Conditional Use Permit for exceeding building envelope requirements for a second story addition and an expansion of a non-conforming setback to a single-family house at 1532 Richmond Street.

Ayes: Gillett, Houser, Norwood, Tinclair

Noes: None

Abstain: None

Absent: Hamilton, Helion, Navarrete

7. STAFF COMMUNICATIONS

Planning Manager Sean Moss updated the Commission regarding the Safety Element update, and the appeal of a use permit for a daycare center to the City Council.

8. ADOPTION OF THE 2026 REGULAR PLANNING COMMISSION MEETING SCHEDULE

Adoption of the regular meeting schedule for the 2026 calendar year.

Moved/Second: Member Tinclair/Norwood **Action:** Passed a motion to adopt the 2026 Planning Commission regular meeting schedule.

Ayes: Gillett, Houser, Norwood, Tinclair

Noes: None

Abstain: None

Absent: Hamilton, Helion, Navarrete

9. ADJOURNMENT

8:00 p.m



Community Development Department
Planning and Building Division
10890 San Pablo Avenue, El Cerrito, CA 94530
(510) 215-4330 | planning@elcerrito.gov

PLANNING COMMISSION STAFF REPORT

February 18, 2026

OUTDOOR DINING AND RETAIL SALES ORDINANCE

DETAILS

Applicant: City of El Cerrito

Location: Citywide

Request: Recommendation to City Council on a Zoning Text Amendment for Outdoor Dining and Retail regulations.

CEQA: This ordinance is exempt from the California Environmental Quality Act (“CEQA”) because the proposed program will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines Section 15060(c)(2)) and it can be seen with certainty that there is no possibility that the ordinance will have a significant impact on the environment (CEQA Guidelines Section 15061(b)(3)).

EXECUTIVE SUMMARY

On July 31, 2020, the City Council adopted a Temporary Outdoor Dining and Retail Program in El Cerrito to enhance business recovery during the COVID-19 pandemic; then in December 2022, the City Council extended the Temporary Outdoor Dining and Retail Program.

In the fall of 2023 City staff commenced an effort to create a permanent Outdoor Dining and Retail ordinance to replace the interim ordinance in order to continue the benefits of the program which supports numerous city goals, including attracting pedestrian activity, and increasing residential population to foster community, supporting businesses, and creating places of interest.

Staff are proposing organizational changes to the ordinance that create distinct processes for outdoor uses based on whether the installation is removable or permanent.

Pursuant to Section 19.40.040 ECMC, permanent amendments to the Zoning Ordinance (Title 19, ECMC) require the Planning Commission to conduct a public hearing and submit a recommendation on the proposed amendment to the City Council.

Staff recommends that the Planning Commission provide a recommendation to the City Council to adopt the proposed Zoning Text Amendment included in the draft resolution in Attachment 1.

Background

On March 13, 2020, the El Cerrito City Council enacted a Local Emergency due to the global COVID-19 pandemic via Resolution No. 2020-12 (Local Emergency).

Subsequently, the County of Contra Costa Health Officer issued a Shelter in Place public health order (SIP Order) due to COVID-19 on March 17, 2020. That order resulted in the multi-month closure of many of the County's local businesses. Governor Gavin Newsom issued a statewide stay at home order on March 19, 2020.

On July 31, 2020, the City Council adopted Resolution 2020-42 amending the Local Emergency to approve a Temporary Outdoor Dining and Retail Program (Program) in El Cerrito to enhance business recovery during the COVID-19 pandemic and to allow businesses flexibility in responding to public health mandates and best practices. As part of the Program, three categories of outdoor dining and retail activities were established: 1) Use of outdoor private property; 2) Use of public sidewalks; and 3) Use of public parking spaces. The Program provided flexibility by waiving existing requirements that limited the use of outdoor space, and provided a one-stop, no-cost platform to apply for and obtain a permit consistent with published guidelines. The City's current provisions in the Municipal Code regulate outdoor dining and retail, temporary uses, parking requirements, signage, and encroachments into the public right of way, including streets and sidewalks. The Program waived the processes and requirements previously established for these uses and in their place established the Temporary Outdoor Dining and Retail Permit.

On September 20, 2022, the City Council adopted Resolution 22-74 to end the Local Emergency effective December 31, 2022, at 11:59 pm. Given that the Local Emergency provided authority to enact temporary emergency measures, including this Program, staff began exploring mechanisms to continue to allow local businesses to operate outdoor dining and retail activities. On December 6, 2022, the City Council adopted Ordinance 22-04 which established a similar Temporary Outdoor Dining and Retail Program outside the declared Local Emergency. On January 17, 2023 the City Council adopted Ordinance 23-01 which extended the Temporary Outdoor Dining and Retail Program Ordinance. This Ordinance was set to expire on December 5, 2024. On November 19, 2024, the City Council adopted Ordinance 2024-04 which further extended the program indefinitely to allow staff time to complete a process to draft permanent regulations, including business outreach and public participation.

In 2024, City staff commenced an effort to develop a permanent Outdoor Dining and Retail ordinance to replace the interim ordinance in order to continue the benefits of the program which supports numerous city goals, including attracting pedestrian activity to foster community, supporting businesses, and creating places of interest. Under the Temporary Outdoor Dining and Retail Program Ordinance the City also adopted Outdoor Dining & Retail Program Guidelines which set forth the requirements that applicants need to comply with. As long as those requirements are met, the application is approved.

Community Development staff coordinated an internal working group including representatives from the Planning Division, Building Division, Engineering Division, Operations and Environmental Services Division, and Fire Department in order to evaluate the regulations currently in place as part of the Temporary Program. With feedback from this group, staff began creating a draft of the permanent ordinance. During that process, staff determined that additional feedback was needed from

community stakeholders, including the business community, to ensure that the permanent regulations met the needs of local businesses, while implementing the City Council’s vision for a vibrant public realm in our City. On December 4, 2024, a Joint study session of the Planning Commission and the Economic Development Committee was held to provide feedback to staff on the draft ordinance. At the December 4th meeting, one the major concerns that was raised was about the conversion of public parking spaces into parklets as there are many safety concerns. Due to this feedback staff decided not to include public parking spaces as an allowable location.

Analysis

Previous Zoning Ordinance Requirements

Prior to the COVID-19 pandemic and the creation of the Temporary Outdoor Dining and Retail Program, Sections 19.20.150 and 19.20.160 of the El Cerrito Municipal Code (ECMC) regulated outdoor dining uses in the public right of way and outdoor retail sales, respectively.

Outdoor dining in the public right of way previously required an Administrative Use Permit and Administrative Design Review approval. Both applications required approval by the Zoning Administrator. Additionally, development standards for outdoor dining uses were contained in Section 19.20.150 of the El Cerrito Municipal Code. These standards included minimum paths of travel for pedestrians, maximum table sizes, signage requirements, and the prohibition of outdoor dining in a street or alley. This process also required a hold harmless agreement and an encroachment permit for uses in the public right-of-way. Pursuant to Section 19.20.150(C)(8), an Administrative Use Permit approval for outdoor dining was valid for an initial one-year period. However, one could apply for an unlimited term renewal unless the Zoning Administrator deemed that a limited term was appropriate.

Section 19.20.160 established requirements for outdoor retail sales. Under this section of the Municipal Code, any display and sale of merchandise that was conducted on a limited basis required approval of a Temporary Use Permit pursuant to Section 19.35.020, whereas the permanent outdoor display of merchandise required the approval of a Conditional Use Permit. Outdoor retail sales needed to be located completely on private property and could not be located in the public right-of-way. This section also required that the activity areas needed to be appropriately screened from adjacent public rights-of-way and residential districts, and that the location of the merchandise needed to occupy a fixed, specifically-approved location that did not encroach upon parking spaces, driveways, pedestrian walkways, or required landscaped areas.

If a business is located in within the San Pablo Avenue Specific Plan (SPASP) area, then it is subject to the standards of the San Pablo Avenue Specific Plan. Under the SPASP, as updated in December 2022, if an outdoor dining use is proposed along a public right of way frontage, it does not require any additional Zoning approval but would still be subject to an Encroachment Permit if located in the public right-of-way. If an outdoor dining use is proposed in an area which is not along a public right of way frontage, then an Administrative Use permit is required. The SPASP makes no reference to outdoor retail sales uses, leaving in place the provisions of Section 19.20.160 of the Zoning Ordinance. To date, these revised standards have not been applied, as the Temporary Outdoor Dining and Retail Program has been in effect since 2022.

Temporary Outdoor Dining and Retail Program

In light of the COVID-19 pandemic, the declared local emergency, and the public health mandates and guidance at the time, the intent of the Temporary Outdoor Dining and Retail Program was to provide more flexibility by waiving the existing requirements that limited the use of outdoor space, and to provide a streamlined, expedited, no-cost way to apply for and obtain a permit. Under the Temporary Outdoor Dining and Retail Program businesses could submit a permit application at no cost for the following categories of outdoor dining and outdoor retail activities:

1. Use of Outdoor Private Property: Any sidewalks, plazas, or parking lots located on private property, including any that are part of a shopping center.
2. Use of Public Sidewalks: Public sidewalks adjacent to public streets and building frontages.
3. Use of Public Parking Spaces: Parking on public streets that are not on Caltrans state right-of-way (San Pablo Avenue, south of Cutting Boulevard).

As part of the temporary program, applicants needed to adhere to the Outdoor Dining & Retail Program Guidelines which addressed requirements relating to ADA compliance, adequate clearances, temporary furnishings, temporary signs, outdoor food preparation, site maintenance, solid waste, hours of operation, driveway clearances, fire safety, emergency access, and fire and building code compliance. The City Manager was authorized to amend the Guidelines for changes that are consistent with and in furtherance of the Program. In order for a business to apply for permit under this program, the applicant needed to submit a site plan, a pedestrian control plan (if using the sidewalk), ABC approval (if outdoor alcohol consumption was proposed), a certificate of insurance, and an acknowledgement of the various terms and conditions of the program. If adequate application materials were provided, the permit was automatically approved with minimal review from City staff.

Since the initial implementation of the Outdoor Dining and Retail Program, a total of eleven businesses applied for and received temporary permits. Some of the businesses that were granted permits were seeking temporary activities needed to respond to the global COVID-19 pandemic and have now ceased outdoor activities. Other businesses are still operating periodic outdoor activities.

Proposed Permanent Ordinance

The proposed Permanent Outdoor Dining and Retail Program consists of two documents; the Outdoor Dining Uses and Outdoor Retail Sales Ordinance and the Outdoor Dining & Retail Program Guidelines. The ordinance establishes which uses will qualify for the program, the location requirements, the permit processes, and requires compliance with the Outdoor Dining & Retail Program Guidelines.

Most operating standards for the Program are contained within the Outdoor Seating & Retail Program Guidelines. The Guidelines cover standards for furnishings and fixtures, operational standards, the complaint and termination process, and the application submittal requirements.

As mentioned above, under the Temporary Program, there are three categories of outdoor dining and outdoor retail activities which are dependent on the proposed location of the activity. Staff are proposing changes to the ordinance that would create a distinct process for outdoor uses based on whether the installation is readily removable or permanent. If an applicant is proposing an installation that is not permanent and able to be removed without heavy equipment, then many of the same processes and requirements would apply as under the temporary program. The proposed process would still be a streamlined review of the materials to ensure compliance with the guidelines.

If an applicant is proposing installations that are permanent in nature and are not easily removable, then they would still need to meet many of the same requirements as the removable installations with the

additional requirement that either Tier I Design Review would be required if the installation is located in the San Pablo Avenue Specific Plan area, or Administrative Design Review for all other areas. Additionally, a permanent installation that if it is located in the public right of way would need an encroachment permit.

Under the original Temporary Program, outdoor food preparation was previously prohibited. Staff have received feedback from businesses that they are interested in sponsoring temporary food stall popups in front of their business. Under the Urgency Ordinance extension that was adopted by the City Council on November 19, 2024, the language prohibiting outdoor food preparation was removed and standards for outdoor food preparation were put in place. These standards include requiring a current business license, approval from the Contra Costa County Department of Environmental Health, and the outdoor food sales must be in conjunction with an existing brick and mortar business.

As part of the proposed ordinance, Outdoor Dining and Outdoor Retail uses are allowed on properties containing an existing business and adjacent pedestrian areas of public right-of-way. These uses must also be operated in conjunction with an existing business. Exceptions, however, are allowed with approval of an Administrative Use Permit. This allows for business to allow a food pop up or food truck on private property through a streamlined process, but allows for flexibility through the Administrative Use Permit process.

The Guidelines outline the specific requirements that applicants would need to comply with such as leaving adequate clearance for pedestrians, ADA compliance, fire safety standards, and sign requirements. The proposed Guidelines limits the use of generators to 32 hours for every 30 calendar days, to help lessen the impact of generators on the surrounding neighborhood. The Guidelines establishes what type noise would be considered unnecessary noise when it comes to Outdoor Dining and Retail Uses. As part of the Guidelines, staff are proposing the creation of a complaint process, in which the Zoning Administrator may review the Outdoor Dining or Outdoor Retail use at a noticed public hearing if there three substantiated complaints from three different properties within 300 feet of an Outdoor Seating or Outdoor Retail use within one calendar year concerning location, noise, hours of operation, or required clearances.

General Plan Compliance

The proposed Zoning Text Amendment implements a number of goals and policies, or is consistent with applicable goals and policies, of the 1999 General Plan. Relevant goals and policies include:

- Goal LU1: A high-quality residential character within El Cerrito.
 - Policy LU1.4: Intrusions into Residential Areas. Eliminate, to the greatest extent possible, intrusions into residential areas from non-residential areas, such as noise and commercial traffic and parking.
- Goal LU2: A land use pattern and mix of uses that contribute to the financial health and stability of the community.
 - Policy LU2.1: San Pablo Avenue. Promote retail, office, and mixed uses along San Pablo Avenue to provide more tax revenues to the city.
 - Policy LU2.2: Commercial Diversification. Maintain a diversity of commercial land uses to ensure stability during economic cycles and enrich the lives of residents. The maintenance of diversity includes encouragement of small businesses, both in terms of creation of new firms and retention of existing ones.

- Goal LU3: A development pattern that enhances a strong sense of community.
 - Policy LU3.1: Commercial/Residential Interaction. Encourage easy access to local businesses as focal points for neighborhood social interaction.
- Goal LU4: A safe, attractive, and interesting community.
 - Policy LU4.1: Mixture of Uses. Encourage a mix of uses that promotes such community values as convenience, economic vitality, fiscal stability, public safety, a healthy environment, and a pleasant quality of life.
 - Policy LU4.2: Availability of Goods and Services. Provide for economic development that assures the availability and diversity of resident-serving goods and services.
 - Policy LU4.3: Street Frontages. Encourage attractive and accessible street frontages that contribute to the retail vitality of all commercial or mixed-use centers.
 - Policy LU4.4: Amenities. Ensure that new development provides a high level of amenity for users of the development, and, wherever possible, includes community-serving facilities.

San Pablo Avenue Specific Plan Compliance

The proposed Zoning Text Amendment implements a number of goals and policies, or is consistent with applicable goals and policies, of the 2022 San Pablo Avenue Specific Plan. Relevant goals and policies include:

- Goal A: Enliven San Pablo Avenue.
 - Strategy 1: Attract pedestrian activity, and increase residential population to foster community, support businesses and create places of interest.
 - Strategy 2: Attract new businesses and support existing businesses.
- Goal D: Create Housing That Supports a Diverse Population.
 - Strategy 5: Continue to support a wide variety of community amenities to attract and maintain a diverse population.

Public Notice and Comment

The required public notice for the project was published in the East Bay Times on February 4, 2026. No comments were received prior to the publication of this report.

Environmental Review

This ordinance is exempt from the California Environmental Quality Act (“CEQA”) because the proposed program will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines Section 15060(c)(2)) and it can be seen with certainty that there is no possibility that the ordinance will have a significant impact on the environment (CEQA Guidelines Section 15061(b)(3)).

Required Findings

The Planning Commission must make the following findings as outlined in Section 19.40.040 ECMC in order to recommend City Council approval of the Zoning Text Amendment:

1. The proposed amendment is consistent with the goals and policies of all elements of the General Plan, and any applicable specific plan.

The Zoning Text Amendment is consistent with the El Cerrito General Plan and the San Pablo Avenue Specific Plan. As described above, the proposed Zoning Text Amendment implements General Plan Policies LU1.4, LU2.1, LU2.2, LU3.1, LU4.1, LU4.2, LU4.3, LU4.4, and implements San Pablo Avenue Specific Plan Strategies A1, A2, and D5. By allowing a more streamlined process the proposed ordinance supports numerous city goals, including attracting pedestrian activity to foster community, supporting businesses, and creating places of interest. The creation of a complaint process will help limit the intrusion into residential areas. Outdoor dining and retail uses also enliven street frontages, which in turn contributes to the vitality of the City's commercial areas.

2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

As proposed, the Zoning Text Amendment will not be detrimental to the public interest, health, safety, convenience or welfare of the city because the ordinance will enhance the benefits of the existing outdoor dining program which supports numerous city goals, including attracting pedestrian activity to foster community, supporting businesses, and creating places of interest. The Outdoor Dining and Retail Program Guidelines specifically address safety issues and include standards to ensure public safety.

3. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

This ordinance is exempt from the California Environmental Quality Act because the proposed program will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines Section 15060(c)(2)) and it can be seen with certainty that there is no possibility that the ordinance will have a significant impact on the environment (CEQA Guidelines Section 15061(b)(3)).

4. The proposed Zoning Text Amendment is internally consistent with other applicable provisions of this Zoning Code.

The proposed Zoning Text Amendment does not conflict with any other provisions of the Zoning Code (Title 19, ECMC).

Staff Recommendation

Based on the information contained in this report, staff recommends that the Planning Commission recommend City Council approval of the proposed Zoning Text Amendment, as included in the draft resolution in Attachment 1.

Proposed Motion

Move adoption of Planning Commission Resolution PC 2026-01 recommending that the City Council amend Title 19 of the El Cerrito Municipal Code to amend Section 19.20.150, and repeal Section 19.20.160.

Attachments

1. Draft Resolution including revised Section 19.20.150 of the El Cerrito Municipal Code
2. Proposed Outdoor Dining and Retail Program Guidelines

Planning Commission Resolution No. PC2026-01

A RESOLUTION OF THE EL CERRITO PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL AMEND TITLE 19 OF THE EL CERRITO MUNICIPAL CODE TO AMEND SECTION 19.20.150 AND REPEAL SECTION 19.20.160

WHEREAS, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, and general welfare, of their citizens; and

WHEREAS, on March 13, 2020 and July 31, 2020, respectively, the City Council of the City of El Cerrito proclaimed the existence of a Local Emergency related to COVID-19 and adopted Resolution No. 2020-42 to approve a Temporary Outdoor Dining and Retail Program including temporary land use regulations and administrative guidelines and permit procedures (the "Program") in the City to enhance business recovery during the COVID-19 pandemic; and

WHEREAS, on December 6, 2022, the City Council made requisite findings and adopted Ordinance No. 2022-04 pursuant to a duly noticed public hearing as an interim urgency measure for an initial forty-five (45) day period pursuant to Government Code section 65858 to continue the Program, in order to protect public health, safety and welfare as set forth more specifically in that ordinance and hearing records; and

WHEREAS, on January 17, 2023, the City Council made requisite findings and adopted Ordinance No. 2023-01 pursuant to a duly noticed public hearing to extend the interim urgency measure and continue the Program for a period of twenty-two (22) months and fifteen (15) days, in order to continue protecting public health, safety and welfare as set forth more specifically in that ordinance and hearing records; and

WHEREAS, on November 19, 2024, the City Council adopted Ordinance No. 2024-04 enacting an urgency ordinance to maintain a temporary outdoor dining and retail program to enhance business recovery pursuant to government code section 36937; and

WHEREAS, the Program currently operates in the City and is utilized by restaurants, retail businesses, and the general public on outdoor private property, public sidewalks, and public parking spaces; such uses have fostered economic growth and promoted dining and retail activities in the El Cerrito community in support of businesses and customer experience and convenience; and

WHEREAS, in the fall of 2023 City Staff commenced an effort to create a permanent Outdoor Dining and Retail ordinance to replace the interim ordinance in order to continue the benefits of the program which supports numerous city goals; and

WHEREAS, Community Development staff coordinated an internal working group including representatives from the Planning Division, Building Division, Engineering Division,

Operations and Environmental Services Division, and Fire Department in order to evaluate the regulations currently in place as part of the Temporary Program; and

WHEREAS, in the summer and fall of 2024, City staff sought feedback from community stakeholders, including the business community, to ensure that the permanent regulations met the needs of local businesses, while implementing the City Council's vision for a vibrant public realm in our City; and

WHEREAS, On December 4, 2024, a Joint study session of the Planning Commission and the Economic Development Committee was held to provide feedback to staff on the draft ordinance; and

WHEREAS, additionally, City staff proposing establishing a permanent outdoor dining and retail ordinance which serves the public interest and preserves the public peace, health or safety by maintaining the orderly utilization of public and private properties by restaurants, retail businesses, and consumers, and continue to facilitate economic recovery and growth; and

WHEREAS, pursuant to CEQA Guidelines Section 15061(b)(3), this Ordinance is not subject to the California Environmental Quality Act (CEQA), because it can be seen with certainty that there is no possibility that the proposed amendments may have a significant effect on the environment.

WHEREAS, on February 18, 2026, the Planning Commission of El Cerrito, after due consideration of all evidence and reports offered for review, does find and determine the following pursuant to Section 19.40.040 of the El Cerrito Municipal Code:

1. The Zoning Text Amendment is consistent with the El Cerrito General Plan and the San Pablo Avenue Specific Plan. As described above, the proposed Zoning Text Amendment implements General Plan Policies LU1.4, LU2.1, LU2.2, LU3.1, LU4.1, LU4.2, LU4.3, LU4.4, and implements San Pablo Avenue Specific Plan Strategies A1, A2, and D5. By allowing a more streamlined process the proposed ordinance supports numerous city goals, including attracting pedestrian activity to foster community, supporting businesses, and creating places of interest. The creation of a complaint process will help limit the intrusion into residential areas. Outdoor dining and retail uses also enliven street frontages, which in turn contributes to the vitality of the City's commercial areas.
2. As proposed, the Zoning Text Amendment will not be detrimental to the public interest, health, safety, convenience or welfare of the city because the ordinance will enhance the benefits of the existing outdoor dining program which supports numerous city goals, including attracting pedestrian activity to foster community, supporting businesses, and creating places of interest. The Outdoor Dining and Retail Program Guidelines specifically address safety issues and include standards to ensure public safety.

3. This ordinance is exempt from the California Environmental Quality Act because the proposed program will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines Section 15060(c)(2)) and it can be seen with certainty that there is no possibility that the ordinance will have a significant impact on the environment (CEQA Guidelines Section 15061(b)(3)).
4. The proposed Zoning Text Amendment does not conflict with any other provisions of the Zoning Code (Title 19, ECMC).

NOW, THEREFORE, BE IT RESOLVED that the El Cerrito Planning Commission, based on its review and consideration of the facts, the staff report, and all public testimony, hereby recommends that the City Council approve the Zoning Text Amendment, as follows:

Section 1. Amendment of the El Cerrito Municipal Code. The terms Outdoor Dining, Outdoor Retail, and Readily Removeable and their corresponding definitions shall be added to Sections 19.47.010 and 19.47.020 of the El Cerrito Municipal Code as follows:

Section 19.47.010 List of Terms

Outdoor Dining

Outdoor Retail

Readily Removable

Section 19.47.020 Definitions

Outdoor Dining. The use of an outside area for eating, drinking, and food preparation activities, including those in conjunction with an existing business with a storefront. This definition does not include Outdoor Retail, or a sidewalk vendor as defined in Government Code Section 51036.

Outdoor Retail. The use of an outside are in which goods are placed for display or sale purposes in conjunction with an existing business with a storefront.

Readily Removable. Fixtures which are not leaded, cemented, nailed, bolted, power riveted, screwed in or affixed to a location on the ground by weight or in any other manner, and that can be relocated and stored without the use of heavy equipment when not in use.

Section 2. Amendment of the El Cerrito Municipal Code. Section 19.20.150 of the El Cerrito Municipal Code is amended to read in full as follows:

Section 19.20.150 Outdoor Dining and Retail sales

Outdoor Dining Uses and Outdoor Retail Sales shall be located, developed, and operated in compliance with the following standards:

A. Applicability. No person may establish an Outdoor Dining or Outdoor Retail Use on private property or in the public right-of-way without obtaining an Outdoor Dining and Retail Permit from the City in accordance with the requirements of this section. Outdoor Dining and retail uses shall be consistent with the standards in Sections C and D below, and the measures set forth in the Outdoor Dining & Retail Program Guidelines adopted by the City Council and most recently in effect as may be amended. As used in this section, the term “applicant” shall include property owners, business owners, individuals or entities that submit an application to the City, and/or any other project sponsors applying to the City for an Outdoor Dining and Retail Permit and establishing or operating an Outdoor Dining or Outdoor Retail Use thereunder.

B. All Outdoor Dining and Outdoor Retail Uses. All Outdoor Dining or Outdoor Retail Use shall obtain an Outdoor Dining and Retail Permit issued by the City. Issuance of an Outdoor Dining and Retail Permit shall be subject to compliance with the following requirements:

1. Location.

a. Outdoor Dining and Outdoor Retail uses permitted pursuant to this Chapter shall be located on properties containing an existing business, excluding Home Occupations, and adjacent pedestrian areas of public right-of-way. Outdoor Dining and Outdoor Retail uses must be operated in conjunction with an existing business. Outdoor Dining and Outdoor Retail uses must be located within the frontage of the existing business. The definition of “frontage” shall be as defined in the San Pablo Avenue Specific Plan (“SPASP”). Exceptions to the foregoing requirements shall be allowed with approval of an Administrative Use Permit.

b. Notwithstanding any provisions of the Zoning Ordinance and the SPASP, the use of outdoor private sidewalks, other private pedestrian areas, and private parking areas for outdoor dining and outdoor retail uses shall be permitted consistent with this Chapter. The applicant must provide evidence to the City demonstrating valid authorization from the property owner for such use, including the size and location of the use, at the time of filing an application.

2. Compliance with the Outdoor Dining & Retail Program Guidelines. The establishment, operation, and maintenance of an Outdoor Dining or Outdoor Retail use shall comply with all requirements and regulations contained in the Outdoor Dining & Retail Program Guidelines adopted by the City Council and most recently in effect.

3. Temporary Signs. In addition to any signage permitted for the associated business by the Zoning Ordinance and the SPASP, and notwithstanding any provisions of

the Zoning Ordinance and SPASP to the contrary, a maximum of one (1) free-standing menu or merchandizing board may be displayed, as set forth in the Outdoor Dining & Retail Program Guidelines. Free-standing signs must not encroach on the pedestrian right-of-way or the accessible path as required in Section 19.20.150.B.1

4. **Compliance with Applicable Laws.** Outdoor Dining or Outdoor Retail uses shall comply with all applicable federal, state, and local laws at all times, including but not limited to all applicable Fire and Building Standards Code provisions.
5. **County and State Requirements.** Prior to establishing an Outdoor Dining or Retail Use, the applicant shall secure all applicable approvals and permits from the Contra Costa County Department of Environmental Health and/or the California Department of Alcohol Beverage Control (ABC) or other applicable approvals.
6. **Requirements for Use in the Public Right-of-Way.** Outdoor Dining or Retail Use occupying any portion of the Public Right-of-Way, including but not limited to public sidewalks, shall comply with the following requirements:
 - a. **Hold Harmless Waiver.** The applicant shall execute and provide to the City a written agreement, in a form approved by the City Attorney, that the applicant will indemnify, defend and hold harmless the City and designated City Indemnitees for any and all liabilities, claims, damages and expenses for any injuries or property damages in the Right-of-Way arising from the presence of such Outdoor Dining or Retail area in the Right-of-Way.
 - b. **Certificates of Insurance.** The applicant shall provide General Liability insurance, as approved by the City Attorney and the City's Risk Manager, in an amount not less than \$1,000,000 naming the City and City Indemnitees as additional insureds; such policy shall remain in force at all times that the permit is in effect and the applicant shall provide verification of this policy to the City annually.

C. Permit Application Review and Approval.

1. **Application.** An application for Outdoor Dining or Retail Uses shall be filed with the City and shall be accompanied by copies, in a quantity as required on the City's published application checklist, of site plans, ownership information, activity descriptions, photographs, or other presentation material as may be necessary for complete review and consideration of the proposed outdoor dining activities. The applicant shall pay all applicable fees or deposits as set forth in the City's Master Fee Schedule most recently adopted by the City Council.

2. **Review and Approval.** Except as provided for in Subsection (D) below, the City shall administratively process and review an application for Outdoor Dining or Retail Uses. The application will be reviewed against this Section and the Outdoor Dining & Retail Program Guidelines most currently in effect. The application may be approved and an Outdoor Dining and Retail Permit may be issued if the City determines that the proposed Outdoor Dining and/or Outdoor Retail activities and design are consistent with all applicable requirements. Upon approval, the applicant shall execute all required agreements, pay all applicable outstanding fees or deposits as reflected herein and in the City's Master Fee Schedule, and obtain any required insurance, pursuant to the requirements herein.

D. Non-Removable Outdoor Dining. In addition to the requirements of Subsection (B) above, an applicant seeking to install Non-Removable Outdoor Dining furnishing structures that are not readily removable shall be subject to the following additional requirements.

1. **Design Review.** Notwithstanding subsection (B)(7) above, the installation of furnishings and structures shall be subject to Tier I Design Review within the SPASP area or Administrative Design Review in all other areas.
2. **Public Right-of-Way.** For any use of the Public Right-of-Way such as public sidewalks, the following additional requirement shall apply:
 - a. **Encroachment Permit.** Applicants for an Outdoor Dining use in the public right-of-way with non-removable features shall obtain an Encroachment Permit from the City.
 - b. **Removal of Fixtures Upon Termination.** The applicant is required to remove all Outdoor Dining and Retail installations within 90 days upon termination of the Permit pursuant to Subsection (E) below, or if the use has ceased for a duration of more than 90 days.

E. Termination of Outdoor Dining and Retail Permit.

1. **Revocation Based on Complaints Received.**
 - a. Any interested party observing a violation of this Section or the Outdoor Dining & Retail Program Guidelines may submit a complaint to the City in accordance with the procedures set forth in the Guidelines.
 - b. The City will review all complaints received and determine if a complaint has been validly filed and can be substantiated. If the City determines that there is sufficient evidence to substantiate a validly filed complaint, the City will first provide a notice of violation to the party committing the

violation in accordance with the procedures set forth in the Outdoor Dining & Retail Program Guidelines.

- c. If the violation is not corrected as provided for in the Guidelines, the Zoning Administrator may take the following actions or refer the matter to Planning Commission to take the following action: (1) review an Outdoor Dining or Outdoor Retail Permit at a noticed public hearing and impose Conditions on said Outdoor Dining or Retail use under the permit; or (2) may initiate revocation of the applicable permit for the Outdoor Dining or Outdoor Retail use in accordance with the procedures outlined in Chapter 19.32, Common Procedures of this Zoning Ordinance.

2. **Cessation of Use.** The applicant is required to remove the installation if not in use for a duration of more than 90 days.

F. Appeals. Decisions on Outdoor Dining & Retail Use application submissions and permit decisions may be appealed by the applicant to the City Manager or their designee within 10 days of an action on the application. Design Review actions for non-removable Outdoor Dining may be appealed pursuant to Chapter 19.39: Appeals.

G. Violation—Penalty. Any person who violates, or causes or permits another person or entity to violate, any provision of this chapter shall be subject to administrative citations and fines as set forth under Chapter 1.14: Administrative Penalties.

CERTIFICATION

I CERTIFY that this resolution was adopted by the El Cerrito Planning Commission at a regular meeting held on February 18, 2026 upon motion of Commissioner _____, second by Commissioner _____:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

Sean Moss, AICP

Planning Manager



Outdoor Dining & Retail Program Guidelines

If you are a business owner with a storefront or building space and want to use outdoor private and/or public space adjacent to your business the following guidelines apply to all proposed Outdoor Dining and Retail uses.

The City has created a streamlined Outdoor Dining & Retail Permit Application for **Removable Outdoor Dining and Retail Uses**, which are those that use temporary furnishing that can be easily rearranged and removed.

Non-Removable Outdoor Dining Uses, which are those that feature furnishings which are permanently installed and not readily removable as defined in Section 19.20.150 of the Municipal Code, are also subject to Design Review. For information and submittal requirements, please see the [Administrative and Tier I Design Review Checklist](#).

The City has adopted Municipal Code Section 19.20.150 to implement regulations relating to Outdoor Dining and Retail Uses, and created the following guidelines, including general and specific standards, for the Outdoor Dining and Retail Program. Please review the guidelines before submitting a Removable Outdoor Dining & Retail Permit Application.

Standards that apply to ALL Outdoor Dining and Outdoor Retail Uses

(For standards and procedures that apply specifically to removable and non-removable Outdoor Dining and Outdoor Retail Activities, please see those sections of the Guidelines below.)

These general standards apply to all applications for removable and non-removable outdoor dining uses. The use of "Applicant" herein shall be as defined under Section 19.20.150(A) of the Muni Code.

A. Location and Fixture Standards

- 1. Adequate Clearance** – Maintain a permanent minimum 5 feet clear pedestrian clearance between the outdoor dining structure and any physical obstruction in the sidewalk, including but not limited to light poles, news racks, trees, benches or other barriers. Furnishings and merchandise shall not be placed in a manner that obstructs access to the 5-foot pedestrian clearance. In areas where existing physical obstructions are present and unavoidable, the Zoning Administrator may permit reduction of pedestrian clearance to 4 feet. Applicants must clearly show the pedestrian clearance on plans submitted to the City. The proposed pedestrian clearance shall not disrupt any normal function of the sidewalk, street, or surrounding areas, or their circulation and shall not obstruct sight distances or otherwise create hazards for vehicle or pedestrian traffic.

2. **ADA Compliance** - Outdoor dining and business activity areas must comply with all requirements of the Americans with Disabilities Act (ADA). Outdoor dining and business activity areas shall not utilize parking spaces required by the ADA or interfere with the path of travel for the parking stalls. Outdoor activities must be conducted in a manner that would facilitate immediate removal of any obstruction of an accessible path of travel identified by a member of the public, including but not limited to having staff onsite who can immediately carry out such removals. If barriers or platforms are provided as a part of the seating area, an accessible route to each table shall be maintained at all times.
3. **Temporary Furnishings** – The outdoor dining area shall not have any permanent furnishings or non-removable fixtures (except with approval of a Non-Removable Outdoor Dining & Retail Permit). The outdoor dining and retail area also shall not have any temporary furnishings or fixtures except the following: Tables, seating, umbrellas, space heaters, planters, solid waste receptacles, racks, shelving for merchandise, other temporary furnishings needed to provide business services, platforms or ramps to achieve ADA compliance, and physical barriers to mark the outdoor dining area. These items must be designed to be weighted down so as not to be blown by the wind or easily tipped over and must be removable. Operators shall maintain the furnishing in such a manner that it shall not be deemed a nuisance. Temporary furnishings shall not block visibility of street signs, crosswalks, and intersections. No stacking or storage of furnishings in outdoor areas is permitted. If a tent or other barricade is used, exits must be clearly marked. Temporary furnishings shall not be secured to streetlights, trees or any other public street furniture.
4. **Temporary Signs** - A maximum of one (1) free-standing menu or merchandizing boards may be displayed within the outdoor dining area or directly in front of the building, which shall have no more than two (2) faces. Temporary signs may have a maximum total surface area of six (6) square feet per face and can be up to 42 inches tall by 30 inches wide. Free-standing signs must not encroach into the pedestrian clearance, a pedestrian travel route, or an accessible path.
5. **Driveways** - All active driveways and drive aisles must be kept clear and accessible without obstruction at all times.
6. **Fire Safety and Emergency Access** - All building exits, exit pathways and fire drive aisles must be kept clear. Access to building fire protection equipment and sidewalk fire hydrants must be kept clear. A fire extinguisher inside the building must be quickly accessible and located no more than 75 feet (path of travel) from the furthest point of outside occupancy to the location inside the building with no locked doors. If patio heaters are used, a fire extinguisher must be mounted outside with a sign and be easily accessible.
7. **Compliance with Applicable Laws.** Outdoor Dining or Outdoor Retail uses shall comply with all applicable federal, state, and local laws at all times, including but not limited to all applicable Fire and Building Standards Code provisions.

B. Operation Standards

1. **Outdoor Food Preparation** - Any outdoor food preparation must receive all applicable approvals and permits from the Contra Costa Department of Environmental Health or

other applicable agencies. Outdoor food preparation can be done in any fire rated tent or canopy that can withstand up to a 60-mph wind. Cooking appliances shall be 20 feet from anything combustible.

2. **Outdoor Serving of Alcohol** - Any outdoor alcohol service must receive all applicable approvals and permits from the California Department of Alcohol Beverage Control or other applicable agencies.
3. **Site Maintenance** - The area shall be maintained in a sanitary condition free from litter, debris and infestation from pests, and the storm drain must be kept clear. At the end of each business day, establishments are required to clean (sweep and/or mop) the area in and around the outdoor use area. No debris shall be swept, washed, or blown into the sidewalk, gutter or street. Any discharge other than storm water into the storm water drainage system is prohibited.
4. **Solid Waste Disposal** – All solid waste generated by the operation of the outdoor dining area, including garbage, green waste and recycling, must be properly sorted and disposed of in receptacles provided for and serving the business. City on-street trash and recycling receptacles shall not be used.
5. **Hours of Operation** - The outdoor dining and retail activity areas shall adhere to the same approved hours of operation as the existing business. The Zoning Administrator may establish alternate hours for the Outdoor Dining and Retail use if they determine the use is causing a nuisance or is detrimental to the public health, safety and welfare of the surrounding neighborhood.
6. **Electrical Extension Cords** - Any electrical cord located outside must utilize heavy duty extension cords (minimum 14 gauge wire) plugged into GFCI receptacles. Cords cannot be in an area subject to damage or creating a trip hazard. Any electrical cords that cross drive aisles shall be protected, e.g. by a commercial raceway or 2x4 boards. Any electrical cords that cross pedestrian paths of travel shall be affixed so that they are not a tripping hazard. Cords cannot be hung overhead unless supported by other means (e.g. attached to a cable). Any change in elevation to facilitate electrical cords on the ground must comply with applicable ADA standards.
7. **Electrical Generators**. Use of generators shall be limited to 32 hours of operation for every 30 calendar days. Exceptions allowed with approval of an Administrative Use Permit. Applicants shall make their best effort to reduce any noise impacts to the surrounding neighborhood and generators shall not cause unnecessary noise as required herein.
8. **Space Heater** - Space heaters are permitted if they are an outdoor approved type, are located in accordance with the manufacturer's recommendations, and are located at least two (2) feet from the edge of any umbrella canvas, any foliage, or any other flammable object or material. Space heaters may be inspected by the Fire Department. Use of fossil fuel powered space heaters is prohibited. The Zoning Administrator may grant an exception to the prohibition of fossil fuel powered space heaters if the Zoning Administrator determines that the use of such heaters is infeasible due to financial or technical considerations.
9. **Private Property Owner** – For use of outdoor private property such as plazas and privately-

owned parking areas, the applicant is responsible to consult and receive authorization of the property owner for the outdoor dining or outdoor retail use, including the size and location of the use. The City will not be a party to discussions or arrangements concerning the leasing or use of outdoor space on private property. City approval of the temporary outdoor use does not replace or supersede any private lease or contractual agreements between your business and the property owner/landlord or property owner's authority for use of their land/site.

10. **Noise** - Outdoor Dining or Outdoor Retail uses shall not generate unnecessary noise. Noise shall be deemed unnecessary if it is so loud or harsh as to occasion physical discomfort to persons of ordinary sensitiveness, and the noise meets the following criteria:
 - a. Noise generated between the hours of 7:00 a.m. and 9:59 p.m.:
 - i. Occurs for 30 continuous minutes or more; or
 - ii. Occurs for 60 minutes off and on during a 24-hour period
 - b. Noise generated between the hours of 10:00 p.m. and 6:59 a.m.:
 - i. Occurs on more than two instances in a single night; or
 - ii. Occurs on three separate nights over a period of 30 days
11. **Smoking** – Smoking shall be prohibited in conjunction with Outdoor Dining and Outdoor Retail uses in compliance with Chapter 8.06 of the El Cerrito Municipal Code.
12. **Business License** – Applicants for outdoor dining area use are required to obtain and maintain an active business license for the primary business/restaurant. Business licenses are renewed annually.

C. Termination and Complaint Process.

1. **Removal and Termination of Permit.** The Applicant is required to remove the installation if not in use for a duration of more than 90 days.
2. **Complaint Process**
 - a. If a person observes a violation of these Guidelines or Section 19.20.150 of the El Cerrito Municipal Code, then that person may make a report to the City. To make a report, the Reporting Party must provide their name, address, and phone number; the address where the violation occurred, the date and time when the violation occurred, and identify the party responsible for the violation. Only one complaint will be accepted per reporting address.
 - b. After a report is submitted, the City shall independently confirm that the report has been filed in compliance with the requirements hereunder and whether the complaint can be substantiated. If the complaint is substantiated as determined by the City, the City will send a warning letter to the address and/or party identified in the initial report and inform the property owner of the complaint. The business has 15 days after receiving the warning letter to correct the violation.
 - c. If the violation is not corrected, the Reporting Party may make a second report. The second report must be in a notarized affidavit made under penalty of perjury, by completing a form. Upon receiving a substantiated complaint in the form of a notarized affidavit the Zoning Administrator or Planning Commission may review an Outdoor Dining or Outdoor Retail use at a noticed public hearing and impose

Conditions on the Outdoor Dining and Retail use or may initiate revocation of the applicable permit.

General Application Requirements:

For Removable Outdoor Dining & Outdoor Retail Permit

You will need to have the following information ready before you complete the application form:

- *ABC Approval (only if you plan to serve alcohol outside)* – If alcohol is sold and served, you will be asked to upload proof of California Department of Alcoholic Beverage Control (ABC) approval.
- *Public Sidewalks - Use of Public Sidewalks require the following:*
 - *Certificates of Insurance* - General Liability insurance is required, in an amount not less than \$1,000,000.
 - *Hold Harmless Waiver* - The applicant shall provide an executed City hold harmless waiver, file a written agreement in a form approved by the City Attorney stating they will indemnify and defend the City in the event that any person is injured in the right-of-way as a result of the presence of such Outdoor Dining area or Outdoor Retail. The applicant shall provide verification of this policy annually
- *Fill out streamlined on-line application* (<https://www.el-cerrito.org/1508/Outdoor-Seatingwww.elcerrito.gov/outdoorseating>)
 - Submit all materials as outlined in the Outdoor Dining and Retail checklist.
 - Provide payment as defined in the master fee schedule.
 - If you are proposing outdoor food preparation or space heaters, additional review and inspections shall be required by the El Cerrito Fire Department.

For Non-Removable Outdoor Dining & Permit

In order to apply for a **Non-Removable Outdoor Dining & Permit**, in addition to the general application requirements you will need to comply with the following:

- *Design Review Application - The installation of furnishings and structures shall be subject to Tier I Design Review within the SPASP area or Administrative Design Review in all other areas.*
 - *Submit all materials as outlined in the [Administrative and Tier I Design Review Checklist](#).*
- *Public Sidewalks - Use of Public Sidewalks for non-removable fixtures shall also require the following:*
 - *Encroachment Permit.* Applicants for an Outdoor Dining or Outdoor Retail use in the public right-of-way shall obtain an Encroachment Permit from the City. Fees and submittal requirements can be found at <https://www.el-cerrito.org/513/Encroachment-Permit>
 - *Encroachment permits are required to be renewed every 6 months and are subject to renewal fees, as defined in the master fee schedule.*

Note: This Outdoor Dining and Retail program does not permit “parklets.” Parklets are areas for seating and amenities that are contained in parking areas of the public right-of-way. Parklets must be requested through the City’s Encroachment Permit process where they will be considered on a case by case basis.