

Capitola City Council

Agenda Report



Meeting: June 23, 2022

From: Community Development

Subject: Coastal Commission Recommended Modifications to Capitola's Outdoor Dining Ordinance

Recommended Action: Adopt a resolution accepting the California Coastal Commission modifications to repeal and replace Capitola Municipal code section 17.96.170 Outdoor Dining in Public Right of Way and amend Municipal Code Sections 17.44.150(B)(3) and 17.120.030.

Background: In June of 2020, in response to the COVID-19 pandemic and the ensuing social distancing orders, the City issued temporary permits to local restaurants to provide outdoor dining. The existing COVID-19 outdoor dining temporary use permits are valid until two months following final certification of the outdoor dining ordinance.

On April 22, 2021, City Council directed staff to develop a program for permanent outdoor dining. Over the course of the next several months, the City Council held two additional hearings regarding a permanent outdoor dining program, received results from two public surveys, and provided direction on key program elements to staff.

On October 7 and November 4, 2021, the Planning Commission reviewed the draft outdoor dining ordinance and provided a positive recommendation to City Council.

On December 1, 2021, City Council approved the first reading of the draft ordinance to repeal and replace Municipal Code Sections 17.96.170 and amend Municipal Code Section 17.120.030. The ordinance was adopted on December 9, 2021.

Prior to taking effect in the Coastal Zone, the outdoor dining ordinance (Ordinance 1050) must be certified by the California Coastal Commission. Capitola Ordinance 1050 was submitted to Coastal Commission staff in January of 2022. Since then, City staff has been working with Coastal Commission staff on two outstanding items: the dedication of fees to coastal resources and opportunity for Coastal Commission to review the program in three years. On June 10, 2022, the Coastal Commission conditionally certified the Outdoor Dining ordinance subject to required modifications.

Discussion: At this hearing, City Council can decide whether to accept the Coastal Commission modifications or not.

The first modification made by the Coastal Commission is to require all Coastal Development Permits (CDPs) for outdoor dining to be recertified by City Council after the initial three years, and then every five years thereafter. Initially, Coastal staff recommended expiring the CDPs, which would have required all businesses to reapply for a new CDP after the first three years. Coastal staff indicated their interest was to require a follow-up public review process in which permits could be modified or revoked if there is an impact to coastal resources. Staff from both organizations agreed that creating a recertification process would be sufficient to ensure a public review process at regular intervals, which will ensure the program complies. When recertification is due, staff will bring an update to the City Council on all existing active permits and an analysis on compliance. At that time, the City Council will have the option to recertify, amend, or revoke any CDP or the entire program.

The second topic of decision between the Coastal Commission and staff was regarding the dedication of lease revenue for coastal access. The Coastal Commission has agreed to remove the requirement that 50% of revenues from the outdoor dining permits be dedicated for coastal access and maintenance. The purpose of the original dedication of 50% of the funds was to mitigate impacts to coastal resources. Capitola staff provided Coastal staff with a list of coastal enhancements and mitigation measures already included in the ordinance, as well as those that are currently practiced/planned for in Capitola (Attachment

3). After reviewing all the measures in place and planned, the Coastal Commission removed the requirement for dedication of any revenue for coastal access.

Next Steps: If the City Council adopts the Coastal Commission changes, the following next steps will take place:

June 27	Launch lottery for outdoor dining program (<i>45 days</i>)
July 13-15	Coastal Commission concurrence meeting – final approval of ordinance
July 21	Planning Commission review of CDP for prototype street dining deck design
August 15	Lottery
September 10/11	Art and Wine Festival
September 13-15	Temporary outdoor dining program expires (<i>two months from Coastal Commission concurrence meeting</i>)
September 19	Issue CDPs for Outdoor Dining

Staff intentionally planned for the Coastal Development Permits to be issued in mid-September. This will allow all businesses to complete three full summer seasons prior to City Council review of recertification. Also, it will allow adequate time for all structures from the temporary outdoor dining program to be removed prior to installation of the dining decks.

Fiscal Impact: An annual fee of \$3,400 per parking space will be charged to the businesses that participate in this program. This fee covers the average revenue generated annually by a single parking space in the Village. City revenue will be dependent on how many businesses participate in the program, and how many spaces each business applies for.

Attachments:

1. Resolution accepting California Coastal Commission modifications
2. Coastal Commission Staff Letter dated June 13, 2022
3. Capitola's Coastal Enhancement and Mitigation Measures

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