

RESOLUTION NO. ____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
EXTENDING THE DEADLINE FOR OUTDOOR ACTIVITIES AND ENCROACHMENTS FOR
BUSINESSES OPERATING IN THE CAPITOLA VILLAGE
AND ESTABLISHING FEES FOR THE PROGRAM**

WHEREAS, on June 2, 2020, in response to the COVID-19 pandemic and the ensuing social distancing orders, the City adopted Emergency Order No. 4-2020 to issue temporary use permits to allow local restaurants to provide outdoor dining within public parking spaces and on private property.; and

WHEREAS, City Council extended the temporary outdoor dining use permit program four times in 2021, and the program is currently due to expire on May 31, 2022; and

WHEREAS, On October 8, 2021, the State enacted Assembly Bill No.61, which allows jurisdictions the ability to extend the outdoor dining that take up existing parking spaces to July 1, 2024.; and

WHEREAS, the City anticipates enacting a permanent outdoor dining program pursuant to Ordinance 1050, adopted by the City Council on December 9, 2021. Ordinance 1050 allows 25 Village parking spaces to convert to street dining areas and allows sidewalk dining on Monterey Avenue, Capitola Avenue, and the Capitola Wharf, but it will not take effect until certified by the Coastal Commission, which the City anticipates taking place after the temporary program's expiration date of May 31, 2022; and

WHEREAS, the outdoor dining program has allowed the City to increase vibrancy in the Village, which is particularly important during the challenging economic conditions created by the COVID-19 pandemic; and

WHEREAS, the City has an important governmental interest in maintaining a thriving business community and promoting the economic welfare of its community; and

WHEREAS, the City has determined that having an increased number of outdoor dining spaces open for businesses increases the vibrancy of the Village area; and

WHEREAS, the original temporary outdoor dining use permit program repurposed City benches as barriers for the outdoor dining areas as a stop-gap measure to allow the program to begin as soon as possible. Now, two years later, restaurants have had ample time to install planters as outdoor dining area barriers and some City benches have yet to be returned to their original public use as City benches along the Esplanade and throughout the City; and

WHEREAS, City surveys have found that some temporary outdoor dining areas are, at times, not maintained at a high level, which negatively impacts the aesthetic and positive ambiance of the Village as a whole, and a maintenance deposit is a way to encourage businesses with temporary use permits to maintain their outdoor dining spaces; and

WHEREAS, the parking meters in the Village generate on average \$3,400 per year, or \$283 per month, or approximately \$1.50/square foot; and

WHEREAS, by utilizing public metered parking spaces for outdoor dining, the City does not receive parking meter revenue from those spaces, and so the City is imposing a fee on businesses that utilize outdoor dining of a similar amount; and

WHEREAS, the City Council wishes to extend the temporary outdoor dining program beyond the May 31, 2022, deadline.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Capitola that City Council puts in place the following requirements to continue the temporary outdoor dining program:

1. All outdoor dining must be open for use a minimum of five days per week, except in cases of inclement weather. "Open for use" means that the eating or drinking establishment must allow customers to use the outdoor dining area when the establishment is open for business. Signs should indicate seating available for patrons.
2. All City benches must be removed from outdoor dining areas and instead have planters every 5-feet. Planters must be a minimum of five gallons and be consistent in design throughout the outdoor dining area. Planers must contain live plants.
3. A maintenance deposit will be required. Each establishment shall pay a \$500 maintenance deposit. Staff will do random, periodic inspections to ensure street dining areas are clean, plants are alive and maintained, ground is swept, and the tables and heaters organized. Non-compliance will result in an administrative citation with a fee assessed against the deposit. If all funds are depleted due to multiple citations for non-compliance, the outdoor dining permit will be revoked.
4. A payment of \$1.50 per square foot per month, due on the 15th of the month prior, will be required for each outdoor dining establishment.

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the City Council of the City of Capitola on the 28th day of April 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sam Storey, Mayor

ATTEST:

Chloé Woodmansee, City Clerk