



Legislation Details (With Text)

File #: REPORT 22- 0068 **Version:** 1 **Name:**
Type: Action Item **Status:** Municipal Matter
File created: 1/27/2022 **In control:** City Council
On agenda: 2/8/2022 **Final action:**
Title: REINSTATEMENT OF FEES FOR EXISTING ENCROACHMENT AREAS
(Environmental Programs Manager Doug Krauss)
Sponsors:
Indexes:
Code sections:

Attachments: 1. 1. Map of current encroachment areas and decks, 2. 2. Link to June 9, 2020 City Council Report, 3. 3. Link to June 22, 2021 City Council Report, 4. 4. Link to October 26, 2021 City Council Report, 5. 5. Link to December 14, 2021 City Council Report, 6. 6. Link to January 25, 2022 City Council Meeting, 7. 7. SUPPLEMENTAL Map of Existing Commercial Encroachments

| Date | Ver. | Action By | Action | Result |
|----------|------|--------------|--------|--------|
| 2/8/2022 | 1 | City Council | | |

Honorable Mayor and Members of the Hermosa Beach City Council Regular Meeting of February 8, 2022

REINSTATEMENT OF FEES FOR EXISTING ENCROACHMENT AREAS (Environmental Programs Manager Doug Krauss)

Recommended Action:

Staff recommends City Council reinstate the temporarily suspended encroachment fees for permanent encroachment areas at their prior rates beginning March 1, 2022.

Executive Summary:

Fees for existing permanent encroachment areas were temporarily suspended at the beginning of the COVID-19 pandemic as a means of supporting business during limited indoor operations. As directed by Council, staff presents the following report with a recommendation to reinstate fees for pre-existing encroachments.

Background:

The City has long supported and encouraged outdoor dining on private and public property to supplement indoor operations. With the onset of the pandemic and related health orders, businesses were limited to conducting business outdoors. Recognizing this hardship, City Council suspended existing encroachment fees and approved a program to allow expanded outdoor dining and other commercial activity. The City also suspended zoning and parking requirements that allow outdoor dining on private property and established a temporary encroachment permit program allowing

encroachments into sidewalks, public streets, and Pier Plaza. Both the private property programs and encroachment program (together, the “Outdoor Permit Program”) include a basic set of guidelines. These guidelines include:

- Business hours no later than 11:00 P.M.;
- Temporary furnishings to be brought in every night;
- Maintenance of cleanliness;
- Alcohol service only with food; and
- Insurance maintained by permittees.

The City has issued over 60 permits during the term of the Outdoor Permit Program in a variety of public right-of-way areas, including Pier Plaza, sidewalks and on-street parking areas (**Attachment 1**).

To date, City Council has allowed these uses without consideration of any encroachment area rents or reimbursement of lost parking meter revenue. Also, as part of its business assistance efforts, the City waived fees for the outdoor music program, temporary signs and banners, extended business license tax renewals, deferred business license taxes for businesses who were closed, and waived business license tax penalties and interest. The extended business license taxes and waived penalties and interest totaled \$57,322 in revenue the City did not collect. The waived sign and banner fees are estimated at about \$10,000 thus far. In October 2021, Council directed staff to develop permanent versions of the outdoor dining programs and in December of 2021, Council approved extension of the programs through May 31, 2022.

At its January 25, 2022 meeting, City Council directed staff to implement a \$1.50 per square foot fee for the new outdoor dining encroachment areas and to return to Council with an item to reinstate the encroachments fees for existing permanent encroachment areas.

Past Council Actions

| Meeting Date | Description |
|---------------------|--|
| June 9, 2020 | Approved Ordinance 20-1410U allowing temporary permit program for outdoor dining in response to pandemic and approved temporary suspension of fees for existing encroachment areas |
| June 22, 2021 | Approved extension of the outdoor permit program through December 31, 2021 |
| October 26, 2021 | Approved development and implementation of permanent versions of these programs and directed staff to return with item to discuss fees for outdoor encroachment programs |
| December 14, 2021 | Approved extension of programs through June 30, 2022 |

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| January 25, 2022 | Approved implementation of a \$1.50 per square foot fee for the new outdoor dining encroachment areas and directed staff to return to Council with an item to reinstate encroachment fees for permanent encroachment areas |
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Discussion:

For many years, Hermosa Beach businesses have been able to request use of the public right of way through an encroachment permit program. Fees for this use vary based on location and operating hours:

| Location and Hours | Fee per Square Foot |
|-------------------------------------|---------------------|
| Pier Plaza, open after midnight | \$5 |
| Pier Plaza, closed before midnight | \$2 |
| Outside of Pier Plaza or snack shop | \$1 |

As directed by Council at the beginning of the COVID-19 pandemic, encroachment fees were temporarily suspended for all existing encroachment permittees and no new encroachment fees were applied to new outdoor dining areas in the public right of way. Many of the businesses with existing encroachments, especially those on Pier Plaza, expanded their prior encroachment areas with no additional fee.

At its January 25, 2022 meeting, Council directed staff to:

- Implement a new fee of \$1.50 per square foot for new outdoor dining encroachment areas allowed during the COVID-19 pandemic; and
- Return to City Council with an item for reinstatement of fees for existing permanent encroachment areas.

The encroachment fees generate approximately \$283,000 annually and consequently, due to their suspension since the beginning of the pandemic in Spring of 2020, approximately \$500,000 in encroachment fees have not been collected. Staff recommends reinstatement of these fees at their prior rates beginning March 1, 2022.

Fees for the expanded encroachments allowed during the COVID-19 pandemic including sidewalk, Pier Plaza, and on-street areas would be at a rate of \$1.50 per square foot as approved by Council at its January 25, 2022 meeting.

General Plan Consistency:

The proposed program options match the model of “living streets”, also known as “complete

streets”, and a key guiding principle of the General Plan Vision is to foster a vibrant local economy. A living street combines safety and livability while supporting ground floor and outdoor economic activities. This centers on designing streets that can be safely shared by both vehicular and non-vehicular traffic. A living street should also contribute to an engaging public realm and a vibrant local economy.

Relevant Goals and Policies are listed below:

Governance Element

Goal 6. A broad-based and long-term economic development strategy for Hermosa Beach that supports existing businesses while attracting new business and tourism.

Policies:

- **6.4 Business support.** Support the Chamber of Commerce, retailers, tourist service businesses, artists, and other agencies to develop an aggressive marketing strategy with implementation procedures.
- **6.6 Pop-up shops.** Develop plans and programs for underutilized spaces, such as vacant buildings, utility corridors, parkways, etc., for temporary retail, restaurant, and community promoting uses.

Mobility Element

Goal 1. Complete Streets (Living Streets) that serve the diverse functions of mobility, commerce, recreation, and community engagement for all users whether they travel by walking, bicycling, transit, or driving.

Policy:

- **1.1 Consider all modes.** Require the planning, design, and construction of all new and existing transportation projects to consider the needs of all modes of travel to create safe, livable and inviting environments for all users of the system.

Goal 7. A transportation system that results in zero transportation-related fatalities and which minimizes injuries.

Policy:

- **7.1 Safe public rights-of-way.** Encourage that all public rights-of-way are for all users at all times of day where users of all ages and ability feel comfortable participating in both motorized and non-motorized travel.

Fiscal Impact:

The encroachment fees temporarily suspended during the pandemic typically generate approximately \$283,000 annually. Due to their suspension since the beginning of the pandemic in Spring of 2020, approximately \$500,000 in encroachment fees have not been collected.

Attachments:

1. Map of current encroachment areas and decks
2. Link to June 9, 2020 City Council Report
3. Link to June 22, 2021 City Council Report
4. Link to October 26, 2021 City Council Report
5. Link to December 14, 2021 City Council Report
6. Link to January 25, 2022 City Council Report

Respectfully Submitted by: Douglas Krauss, Environmental Program Manager

Noted for Fiscal Impact: Viki Copeland, Finance Director

Legal Review: Mike Jenkins, City Attorney

Approved: Suja Lowenthal, City Manager