



Staff Report

File #: REPORT 22-0333, Version: 1

**Honorable Mayor and Members of the Hermosa Beach City Council
Regular Meeting of May 24, 2022**

**EXTENSION OF TEMPORARY OUTDOOR PERMIT PROGRAMS AND
DOWNTOWN LANE RECONFIGURATION AND UPDATE ON DEVELOPMENT OF
PERMANENT PROGRAMS**

(Environmental Programs Manager Doug Krauss)

Recommended Action:

Staff recommends City Council:

1. Introduce and adopt by four-fifths vote Ordinance No. 22-XXXXU titled, "An Urgency Ordinance of the City of Hermosa Beach, California, extending a Temporary Permit Program for Outdoor Dining/Seating and Outdoor Retail Display to Assist Restaurants, Food, and Retail Establishments During Covid-19; and Extending Temporary Lane Closures to Accommodate Outdoor Permits; and, Setting Forth the Facts Constituting Such Urgency;
2. Receive and provide feedback on the update to the development of permanent versions of the outdoor permit and downtown lane reconfiguration programs, and provide feedback on the charging of fees; and
3. Approve the implementation of short-term refinements to the outdoor dining programs.

Executive Summary:

At its December 14, 2021 meeting, City Council provided staff with direction to develop permanent versions of the temporary outdoor dining and downtown lane reconfiguration programs that were created in response to the COVID-19 pandemic. This direction included temporarily extending the programs through May 2022. Council also directed staff to return at that time with an update and implementation plan detailing next steps and timelines for program development. This item includes an Urgency Ordinance extending the programs, an update on the development of permanent programs, and proposed revisions to the current temporary programs.

Background:

Expanded Outdoor Dining and Retail

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 approved a program to allow expanded outdoor dining and other commercial activity. The City also suspended zoning and parking requirements to allow outdoor dining on private property and established a

temporary encroachment permit program to allow 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;
- Cleanliness;
- Alcohol service only with food; and
- Insurance maintained by permittees.

The City issued over 60 permits during the term of the Outdoor Permit Program in a variety of commercial locations. Initially, City Council allowed these uses without consideration of any encroachment area rents or reimbursement of lost parking meter revenue. Pursuant to the urgency ordinances that established and later extended the Outdoor Permit Program, the program remains in effect until terminated or superseded by ordinance. In June 2021, Council approved extension of this pilot program through December 31, 2021 and authorized implementation of a reapplication process for outdoor dining areas that included:

- Renewal of applicants’ permissions from neighboring businesses where decks encroach upon the frontage of these other businesses. This renewal served to reconfirm cooperation and coordination between businesses, especially in light of changing situations regarding health orders, capacities, etc.; and
- Requirement of a surety bond or deposit to fund any City costs related to deck removal in the event of maintenance emergencies or abandonment.

At its December 14 2021 meeting, Council approved an extension of the programs through May 31, 2022. At its January 25, 2022 meeting, Council discussed implementing new fees for the temporary outdoor dining encroachments and approved a fee of \$1.50 per square foot per month to begin March 1. Four businesses decided to remove their on-street decks, one modified their deck area, and one sidewalk dining area was removed. None of the extended encroachment areas on Pier Plaza have been removed.

City staff continues to work with all the businesses utilizing the temporary encroachments to help ensure fees and necessary paperwork have been submitted. Program revenues for the temporary encroachment areas are estimated to be approximately \$400,000 annually. At its February 8, 2022 meeting, Council also approved reinstatement of the prior permanent encroachment fees. These fees generate approximately \$280,000 annually. To ensure timely payment of these fees, staff recommends program revisions as outlined below.

Lane Reconfiguration

At the May 12, 2020 City Council meeting, City staff presented an item describing a concept to

repurpose sections of public right of way to improve multimodal traffic safety and expand physical-distancing options for the public and businesses per Los Angeles County Health orders related to the COVID-19 pandemic. The City Council moved quickly to accommodate these programs and staff developed guidelines based on information gathered from existing programs in other cities and internal review of policies and regulations.

City Council directed staff to work with the Economic Development Committee (EDC) to explore aspects of the program that could directly benefit local businesses. At meetings in August and September 2020, Council directed staff to move forward with designs of lane reconfiguration concepts for both Hermosa Avenue and Pier Avenue. These concepts included removing one through vehicle lane in each direction, addition of a bike lane, installation of a number of new on-street ADA accessible parking spots, and associated signage and pavement markings (hereafter, the “Downtown Lane Reconfiguration Program”). At the October 27, 2020 meeting, Council awarded a contract to perform the work. Work began in early January 2021 and was completed by January 16, 2021. As directed by Council, the lane reconfiguration was to be in place for at least six months starting from the completion date of the work and was to, therefore, operate until July 2021. At the July 13, 2021 meeting, Council approved a Resolution extending the Downtown Lane Reconfiguration Program through the end of the year. In December 2021, Council approved an extension of the program through May 31, 2022.

Past Council Actions

Meeting Date	Description
June 9, 2020	Approved Ordinance 20-1410U allowing temporary permit program for outdoor dining in response to pandemic.
July 14, 2020	Directed staff to proceed with development of lane closure plans.
June 22, 2021	Approved extension of the outdoor permit program through December 31, 2021.
July 13, 2021	Approved Resolution authorizing extension of lane reconfigurations.
October 26, 2021	Approved development and implementation of permanent versions of these programs.
December 14, 2021	Approved development of permanent programs, and extension of temporary programs through May 2022
January 25, 2022	Discussion and approval of new fees for temporary encroachments
February 8, 2022	Approved reinstatement of existing fees for permanent encroachment areas

Discussion:

As directed by Council at its October 26, 2021 meeting, staff developed a proposed planning and implementation schedule for development of permanent versions of the Outdoor Permit Program and

Downtown Lane Reconfiguration Program. The schedule includes approval of urgency ordinances temporarily extending the programs, which allow more time to develop the proper administrative, funding, and legislative mechanisms to allow permanent programs. The administrative functions for this program development include: municipal code amendments for commercial encroachment into the right-of-way and potential zoning code changes; CEQA analysis; discussion of encroachment fees; and analysis of programs to address the loss of public parking through alternative transportation and parking management strategies in conjunction with application for a Coastal Commission development permit.

The table below summarizes the planning and implementation schedule. A column detailing status and progress is also included.

Task	Performed By	Status and Updates
CEQA Analysis	Existing bench consultant(s), City Attorney	Assessing what additional studies will be appropriate to complete this analysis and make a final determination.
Initial Encroachment Fee Schedule to Council	City staff	Fees for temporary encroachments were approved in January 2022 and existing encroachment fees were reinstated in February 2022
Municipal Code Amendments to Council (and/or Commissions, as appropriate)	City staff/consultants	Initial development underway. To be informed by CEQA analysis and Coastal Commission permit.
Coastal Commission Coordination and permitting	City staff/consultants	Initial meeting with Coastal Commission has been held and meetings with potential consultants to help process have begun.
Stakeholder Meetings	City staff and community stakeholders	Informal stakeholder group meetings have been held to inform design and policy.
Program Design Standards	City Staff/consultants	Stakeholder group is assisting and further engagement is forthcoming
Public Outreach and surveys	City staff/consultants	To be determined
Final Implementation	City staff	2023

Staff is working with a consultant and the City Attorney to understand the timeframe and approach to the CEQA analysis. This includes meetings with on-call traffic consultants to ascertain whether additional traffic and parking analysis may be useful. Work also continues on developing a scope of work to solicit proposals from consultants that can assist with program development addressing the necessary Coastal Commission permit application process. Staff would continue to provide Council

updates on these necessary steps as the program progresses.

Staff recommends City Council approve the urgency ordinance (**Attachment 1**) to extend the programs through January 1, 2023 to allow staff to continue development of the program. Work continues with the City Attorney to create the proposed temporary extensions necessary until establishment of the permanent authorizations is finalized.

Staff also recommends implementation of refinements to improve the program in the short term. Though temporary, these programs have been in place for nearly two years and there is potential they would endure beyond the recommended extension period. With this in mind, staff suggests changes to the policy to be made effective June 30, 2022. The changes generally aim to improve aesthetics and cleanliness of the outdoor dining areas and prohibit improper uses of the areas:

1. Traffic Barriers ("K-rails" or water barriers) must be covered on all sides with durable exterior material in an aesthetically pleasing manner;
2. No off-premises signs or advertisement allowed nor prohibited advertisement except for the previously authorized two-foot by two-foot sign with the business name and logo. "Off-premises sign" is a sign which is not located on the property to which it directs attention. Only approved signs on the building housing the business would be allowed;
3. No portable canopies (i.e., "EZ Ups") are allowed in outdoor dining areas. Any shade canopy must be structurally affixed to the dining deck and be retractable;
4. Deck joist and outside walls must be modified to allow water flow along gutter, including, but not limited to, a 6-inch by 6-inch opening at curb face and continuing under the deck to allow water discharge from the other end;
5. There shall not be more customers in the approved dining area than there are seats at the tables. No separate seating is allowed that is not provided for dining at tables;
6. No sports, games, entertainment other than authorized "live music" allowed. This includes darts, beer pong, corn hole, DJs, etc.;
7. Any business currently delinquent on payment of encroachment fees must make full payment by June 1, 2022 or face immediate removal of the encroachment area or outdoor deck; and
8. Moving forward, any business that becomes 30 days delinquent on payment of an encroachment fee would be prohibited from using their encroachment area and would face immediate cancellation of existing encroachment permit and/or removal of outdoor deck area.

If extended, staff would re-emphasize the need for all business to maintain and assess their outdoor dining areas and would follow-up with inspections and notices to the businesses to support this effort. Staff requests Council feedback regarding the current fees and any future modifications to the fees.

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:

Council previously appropriated \$60,000 to a new Capital Improvement Project Study 197, Hermosa Shared Streets Project to fund the consultant work to perform the CEQA analysis. Staff requested an additional \$60,000 to fund additional traffic and parking analysis to support the Coastal Development

Permit application required for Coastal Commission approval. Staff would return to Council with updates and further information concerning additional costs for implementing permanent programs as needed.

The \$1.50 per square foot fee approved by Council in January is estimated to generate approximately \$400,000 annually. In February of 2022, Council also approved reinstatement of the prior permanent encroachment fees, which generate approximately \$280,000 annually.

Attachments:

1. Urgency Ordinance
2. Link to June 9, 2020 Staff Report
3. Link to July 14, 2020 Staff Report
4. Link to June 22, 2021 Staff Report
5. Link to July 13, 2021 Staff Report
6. Link to October 26, 2021 Staff Report
7. Link to December 14, 2021 Staff Report
8. Link to January 25, 2022 Staff Report
9. Link to February 8, 2022 Staff 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