



## Legislation Details (With Text)

**File #:** 18-0427      **Version:** 1

**Type:** \*Public Hearing - Staff Report      **Status:** Agenda Ready

**In control:** City Council Regular Meeting

**On agenda:** 10/16/2018      **Final action:**

**Title:** Ordinance No. 18-0022 Amending the Municipal Code (MBMC) and Ordinance No. 18-0023 Amending the Local Coastal Program (LCP) To Regulate: (a) Banks, Catering Services, Offices (Business and Professional), Communication Facilities, Veterinary Services and Optometrists; (b) Retail Store Sales Floor Area; and (c) Second-Floor Outdoor Dining, in the Downtown Commercial (CD) Zone; Resolution No. 18-0037 Not Accepting the California Coastal Commission's 27 Modifications to the Downtown Specific Plan and Resolution No. 18-0138 Repealing the Downtown Specific Plan and Conforming Amendments (Community Development Director McIntosh).

- a) CONDUCT PUBLIC HEARING
- b) INTRODUCE ORDINANCE NOS. 18-0022 AND 18-0023
- c) ADOPT RESOLUTION NOS. 18-0137 AND 18-0138

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Ordinance No. 18-0022, 2. Ordinance No. 18-0023, 3. Resolution No. 18-0137, 4. Resolution No. 18-0138, 5. Urgency Ordinance No. 18-0019-U, 6. Second-Floor Outdoor Dining Map, 7. 2016 Downtown Design Guidelines

Date	Ver.	Action By	Action	Result
10/16/2018	1	City Council Regular Meeting	introduced ordinance	Pass
10/16/2018	1	City Council Regular Meeting	introduced ordinance	Pass
10/16/2018	1	City Council Regular Meeting	approved as amended	Pass
10/16/2018	1	City Council Regular Meeting	adopted	Pass

**TO:**  
Honorable Mayor and Members of the City Council

**THROUGH:**  
Bruce Moe, City Manager

**FROM:**  
Anne McIntosh, Community Development Director  
Nhung Madrid, Senior Management Analyst  
Ted Faturos, Assistant Planner

**SUBJECT:**  
Ordinance No. 18-0022 Amending the Municipal Code (MBMC) and Ordinance No. 18-0023 Amending the Local Coastal Program (LCP) To Regulate: (a) Banks, Catering Services, Offices (Business and Professional), Communication Facilities, Veterinary Services and Optometrists; (b) Retail Store Sales Floor Area; and (c) Second-Floor Outdoor Dining, in the Downtown Commercial (CD) Zone; Resolution No. 18-0037 Not Accepting the California Coastal Commission's 27

Modifications to the Downtown Specific Plan and Resolution No. 18-0138 Repealing the Downtown Specific Plan and Conforming Amendments (Community Development Director McIntosh).

- a) **CONDUCT PUBLIC HEARING**
- b) **INTRODUCE ORDINANCE NOS. 18-0022 AND 18-0023**
- c) **ADOPT RESOLUTION NOS. 18-0137 AND 18-0138**

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**RECOMMENDATION:**

Staff recommends that after conducting a public hearing, the City Council:

- a. Introduce Ordinance No. 18-0022 amending the Manhattan Beach Municipal Code (MBMC) to regulate: (a) Banks, Catering Services, Offices (Business and Professional), Communication Facilities, Veterinary Services and Optometrists; (b) Retail Store Sales Floor Area; and (c) Second-Floor Outdoor Dining, in the Downtown Commercial (CD) Zone;
- b. Introduce Ordinance No. 18-0023 amending the Local Coastal Program (LCP) to regulate: (a) Banks, Catering Services, Offices (Business and Professional), Communication Facilities, Veterinary Services and Optometrists; (b) Retail Store Sales Floor Area; and (c) Second-Floor Outdoor Dining, in the Downtown Commercial (CD) Zone;
- c. Adopt Resolution No. 18-0137 not accepting the California Coastal Commission's 27 modifications to the Downtown Specific Plan; and
- d. Adopt Resolution No. 18-0138 repealing the Downtown Specific Plan and conforming amendments.

**EXECUTIVE SUMMARY:**

Ordinance No. 18-0022 would amend the Manhattan Beach Municipal Code (MBMC) to regulate: (a) Banks, Catering Services, Offices (Business and Professional), Communication Facilities, Veterinary Services and Optometrists; (b) Retail Store Sales Floor Area; and (c) Second-Floor Outdoor Dining, in the Downtown Commercial (CD) Zone. Ordinance No. 18-0023 is the companion ordinance, amending the City's Local Coastal Program with the identical land use regulations. The draft ordinances contain the identical land use regulations contained in Urgency Ordinance No. 18-0019-U, which the City Council adopted on July 17, 2018. Likewise, the land use regulations in Urgency Ordinance No. 18-0019-U were contained in the Downtown Specific Plan (DTSP), as adopted by the City Council on December 6, 2016, after receiving a recommendation from the Planning Commission.

Pursuant to City Council direction, this staff report highlights the issue of second-floor outdoor dining in the event the City Council wants to revisit that issue and consider changes to the restrictions on second-floor outdoor dining regulations contained in Urgency Ordinance No. 18-0019-U (and the DTSP).

If the Council adopts Resolution No. 18-0037, it would inform the California Coastal Commission that the Council does not accept the Commission's 27 suggested modifications to the DTSP. Accordingly, Resolution No. 18-0038 repeals the DTSP and all related General Plan Amendments, Local Coastal Program and Local Coastal Plan Implementation Plan Amendments.

**FISCAL IMPLICATIONS:**

There are no fiscal implications associated with this recommendation.

**BACKGROUND:**

On July 17, 2018, the City Council adopted Urgency Ordinance No. 18-0019-U (Attachment) which enacted the following land use regulations for the Downtown Commercial (CD) Zone. Urgency

Ordinance No. 18-0019-U:

- 1) Requires a Use Permit for any proposed bank, credit union, savings and loan businesses, catering service and offices (business and professional) on the ground floor, except that any such use proposed on a site exclusively fronting an alley, requires only the Community Development Director's approval.
- 2) Limits proposed "communication facilities" to locations above the ground floor.
- 3) Requires a Use Permit for any proposed retail store with more than 1,600 square feet of sales floor area, and excludes rooms or areas that are permanently inaccessible to the public, such as storage rooms, offices associated with the retail tenant, mechanical rooms, bathrooms, and common areas, from the calculation of sales floor area.
- 4) Prohibits second-floor outdoor dining on private property and on balconies projecting over the public right-of-way.
- 5) Permits veterinary services as a permitted use in the Downtown, provided that: medical treatment is only for small animals; overnight boarding is permitted only if associated with the on-site veterinary services; and the facilities are entirely enclosed, soundproofed and air-conditioned.
- 6) Permits Optometry Office/Optometrist on the ground floor adjacent to sidewalks and other pedestrian areas only if the Office/Optometrist has a substantial retail component, subject to the Community Development Director's approval.

Ordinances No. 18-0022, which, if adopted would amend the Municipal Code, and Ordinance No. 18-0023 which, if adopted, would amend the Local Coastal Program, contain the identical land use regulations listed above. Once again, the regulations apply only to the CD Zone.

On August 9, 2018, the California Coastal Commission (CCC) held a public hearing to consider the Downtown Specific Plan (DTSP) and Local Coastal Program (LCP) Amendments adopted by the City Council on December 6, 2016. At the hearing, the CCC denied the City's application as submitted, and approved the DTSP with 27 modifications.

In light of the California Coastal Commission's decision on the DTSP, staff sought City Council direction on next steps. Per the CCC's regulations, the City has six months to act on the CCC's final decision. Staff presented the City Council with options to either accept, reject, or re-submit a new application to the CCC. On September 4, 2018, the City Council directed staff to prepare all necessary documents to reject the CCC's final decision and replace the 1998 Downtown Design Guidelines with the 2016 Downtown Design Guidelines (Attachment).

**DISCUSSION:**

With the exception of second-floor outdoor dining, the recommended action tonight is to adopt the necessary instruments to:

- Maintain existing land use regulations that were contained in the DTSP and Urgency Ordinance No. 18-0019-U as they relate to the uses listed in the background
- Inform the CCC that the City Council does not accept the CCC's 27 modifications to the DTSP
- Repeal the DTSP and all related resolutions

Second-Floor Outdoor Dining background and analysis

At the July 17, 2018 City Council meeting, the City Council directed staff to return at a future meeting to provide more information about second-floor outdoor dining, the Planning Commission's

discussion related to second-floor outdoor dining, and how the previous City Council decided to prohibit second-floor outdoor dining in the CD Zone.

In 2016, the Planning Commission at the time, in developing the final recommendations for the Downtown Specific Plan, discussed several key concepts related to new land use regulations for the CD Zone. Specifically, second-floor outdoor dining was one of the key concepts that was extensively discussed at both the Planning Commission and City Council public hearings. To provide greater context for the development of second-floor outdoor dining regulations, the following discussion recounts the development of second-floor outdoor dining through the public hearing process.

Prior to the development of the Downtown Specific Plan, the City's Zoning Code did not directly address or regulate second-floor outdoor dining for restaurants in the CD Zone. The Code required a Use Permit for establishing or expanding any restaurant use. Any new restaurant that desired second-floor outdoor dining would have their second-floor outdoor dining request reviewed as part the Use Permit process, as would any existing restaurant that wanted to add second-floor outdoor dining. There were no specific regulations in the Code that regulated second-floor outdoor dining beyond these general requirements that any new or expanded restaurant obtain a Use Permit or Use Permit Amendment, respectively. Mirroring the current code, the March 2016 Draft Downtown Specific Plan did not directly address or regulate second-floor outdoor dining at restaurants in the CD Zone either. The Plan remained consistent with the City's current Code for restaurant uses.

The Planning Commission discussed the concept of regulating second-floor outdoor dining in response to public testimony received at several of the Planning Commission study sessions. The Planning Commission acknowledged that although second-floor outdoor dining could benefit the entire community, downtown residents still had concerns about potential negative impacts. The Planning Commission initially voiced support for appropriately-scaled second-floor outdoor dining if located on primary downtown commercial corridors (Manhattan Beach Boulevard, Highland Avenue, and Manhattan Avenue). The Planning Commission directed staff to create regulations that would limit second-floor outdoor dining to sites that were (1) located on these main commercial corridors, and (2) located at least one block away from a residentially-zoned use.

With different Planning Commissioners wanting different blocks to remain in the area where second-floor outdoor dining would be allowed, there was a 3-2 straw vote in favor of allowing second-floor outdoor dining, as shown in the blue area depicted in the attached map (Attachment). Some Planning Commissioners felt that staff's proposal included blocks located too close to residential areas, and wanted some blocks removed. The Planning Commission indicated that it would be up to the City Council to make the final decision on the boundary area where second-floor outdoor dining could be allowed with a Use Permit. The Planning Commission recommended that restaurants only located in certain blocks within the CD Zone be eligible to apply for a Use Permit for second-floor outdoor dining. Restaurants not in these designated blocks would have been ineligible to apply for a Use Permit for second-floor outdoor dining. This Planning Commission's recommendation would have created new, more restrictive regulations than what was allowed in the Code, since second-floor outdoor dining was allowed with a Use Permit on *any* commercial property citywide.

The Planning Commission also supported additional regulations with second-floor outdoor dining stating that any proposal for second-floor outdoor dining would:

- Only be permitted in the main commercial corridors, as depicted in the map (Attachment)
- Not be allowed to face residential uses

- Be required to provide a noise study (for any dining use proposed to serve full alcohol with hours of operation past 10:00 PM)
- Be required to provide physical and operational modifications, improvements and conditions to minimize and address adverse impacts
- Be subject to post construction and operation monitoring to verify conformance with the conditions of the Use Permit
- Be subject to additional modifications, improvements and conditions as needed to ensure conformance with the Use Permit.

The Planning Commission's recommendations were presented at the City Council public hearing, which was held on December 6, 2016. At the public hearing, approximately 35 residents provided public testimony on the Downtown Specific Plan, and over half of the speakers opposed second-floor outdoor dining in the Downtown area, as recommended by the Planning Commission. Speakers expressed concerns related to adverse impacts to quality of life for Downtown and Downtown adjacent residents, and the increase in visitors, noise, trash, and traffic related to allowing second-floor outdoor dining.

The City Council discussed the Planning Commission's recommendation, questioned whether or not the City should prohibit second-floor outdoor dining since there had not been a demand for such use in the last 15 years, but also indicated that after hearing such opposition from the residents, felt inclined to prohibit it in the Downtown area. The City Council voted to 4-0-1 (D'Errico abstaining) to prohibit second-floor outdoor dining in the CD Zone.

Prior to the development of the Downtown Specific Plan, a restaurant could ask for second-floor outdoor dining during the Use Permit process. There is currently only one restaurant in the CD Zone, The Strand House, which has a Use Permit that allows for second-floor outdoor dining. However, Urgency Ordinance 18-0019-U currently prohibits second-floor outdoor dining in the CD Zone, as does the proposed ordinances 18-0022 and 18-0023.

Instead of prohibiting second-floor outdoor dining in the CD Zone, the City Council could alternatively consider requiring restaurants to obtain a Use Permit to have a second-floor outdoor dining area, which was the process in place prior to the Downtown Specific Plan discussion, so that the Commission (and Council on appeal or Council review) could determine, on a case-by-case basis, as to whether outdoor dining in a particular location is compatible with surrounding uses, or can be conditioned to mitigate any potential impacts on surrounding uses and residents. If the City Council wants to allow second-floor outdoor dining with more restrictions than previously allowed, the City Council may require restaurants to obtain a Use Permit along with the additional regulations recommended by the Planning Commission. The latter option would create much more restrictive regulations than what was previously allowed in the Code, and is designed to address the concerns expressed by Downtown residents. Taken together, the regulations and the map outlining the area where second-floor outdoor dining creates a stronger regulatory framework for second-floor outdoor dining in the CD Zone that does not currently exist in the Code.

#### **PUBLIC OUTREACH/INTEREST:**

Tonight's public hearing was duly noticed in The Beach Reporter on October 4, 2018. No public comments have been received as of October 4, 2018. Any public comments received after this date will be provided to the City Council at or prior to the public hearing.

## **ENVIRONMENTAL REVIEW**

In accordance with the provisions of the California Environmental Quality Act (CEQA), as part of the Downtown Specific Plan Project and Local Coastal Program Amendments, the City prepared an Initial Study, and certified a Mitigated Negative Declaration, and Mitigation Monitoring and Reporting Program to ensure compliance with the requisite mitigation measures. No additional analysis is required at this time.

## **LEGAL REVIEW**

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

## **Attachments:**

1. Ordinance No. 18-0022
2. Ordinance No. 18-0023
3. Resolution No. 18-0137
4. Resolution No. 18-0138
5. Urgency Ordinance No. 18-0019-U
6. Second-Floor Outdoor Dining Map
7. 2016 Downtown Design Guidelines