



## Legislation Text

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**File #:** 18-0321, **Version:** 1

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**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

**SUBJECT:**

Ordinances Nos. 18-0019-U and 18-0019 to Regulate: (a) Banks, Catering Services, Offices, Communication Facilities, Veterinary Services and Optometrists; (b) Retail Store Sales Floor Area; and (c) Second-Floor Outdoor Dining, In the CD Downtown Commercial District, Consistent with the Downtown Specific Plan (Community Development Director McIntosh).

- a) **CONDUCT PUBLIC HEARING**
- b) **ADOPT URGENCY ORDINANCE NO. 18-0019-U**
- c) **INTRODUCE ORDINANCE NO. 18-0019**

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**RECOMMENDATION:**

Staff recommends that the City Council:

1. Conduct a public hearing;
2. Adopt Urgency Ordinance No. 18-0019-U regulating certain uses in the (CD) Downtown Commercial District to take effect immediately upon adoption, and
3. Introduce Ordinance No. 18-0019, containing the identical Municipal Code regulations contained in Urgency Ordinance No. 18-0019-U.

**FISCAL IMPLICATIONS:**

There are no fiscal implications associated with the recommended action.

**BACKGROUND:**

Since mid-July 2014, the City has been studying the Downtown area, and directed staff to draft a Downtown Specific Plan (DTSP). After public hearings before the Planning Commission and the City Council, the City Council adopted the DTSP in December 2016. Staff submitted the DTSP to the California Coastal Commission for certification in March 2017. As of the date of this staff report, the Coastal Commission has not yet certified the DTSP.

**DISCUSSION:**

On June 19, 2018, the City Council discussed options for the Downtown area and directed the City Attorney and staff to prepare an ordinance consistent with key regulations from the adopted 2016

Final Downtown Specific Plan. Staff has prepared two ordinances: (1) an urgency ordinance that, if adopted by a 4/5<sup>th</sup> vote, becomes effective immediately; and (2) a regular ordinance that will require first and second reading and becomes effective 30 days after second reading. The amendments to the Municipal Code are identical in each ordinance and mirror the regulations contained in the DTSP adopted by the City Council.

### LAND USE

Both Urgency Ordinance No 18-0019-U (Attachment 1) and Ordinance No. 18-0019 (Attachment 2) contain the following land use regulations (substantially identical to the DTSP) that would apply only to the CD Downtown Commercial Zone:

#### 1) *Ground Floor Uses*

Banks, catering services, and offices would be permitted above the ground floor. These uses would also be permitted if exclusively fronted on an alley, subject to Community Development Director's approval. All other locations for these three uses would require a Use Permit, such as a ground floor space adjacent to a sidewalk. Additionally, communication facilities would only be permitted above the ground floor.

An optometrist, although typically considered an office use, would not be required to obtain a Use Permit if located on a ground floor space adjacent to sidewalks and other pedestrian areas as long as the optometrist has a strong retail component.

#### 2) *Retail Store Sales Floor Area*

A Use Permit would be required for retail with more than 1,600 square feet of sales floor area. Sales floor area 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.

#### 3) *Second-Floor Outdoor Dining*

Second-floor outdoor dining on private property would be prohibited. Outdoor dining on balconies projecting over the public right-of-way would also be prohibited.

#### 4) *Veterinary Services*

A new land use, Veterinary Services, would become a permitted use in the Downtown. Veterinary services provide medical treatment for small animals, and overnight boarding only if associated with the on-site veterinary services. Facilities must be entirely enclosed, soundproofed and air-conditioned.

Requiring a Use Permit prior to establishing certain uses is a balanced approach that provides the public, the Planning Commission and City Council an opportunity to consider whether each of the identified uses of land is compatible with surrounding uses and residents on a case-by-case basis, without being overly burdensome to property owners, merchants and developers.

Depending on Coastal Commission action on the DTSP, the City may have to present similar amendments to the City's Local Coastal Program to the Coastal Commission.

### **POLICY ALTERNATIVES:**

**ALTERNATIVE #1:** Do not adopt the ordinances.

This alternative may lead to conflicts with the community goals identified through extensive public outreach, as well as future General Plan, Zoning Code, Local Coastal Program provisions, and lead to uncertainty if the Coastal Commission further delays taking action on the DTSP.

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

Since 2014, staff has performed extensive outreach and engagement with the community and various stakeholders on all aspects of the Downtown and the Specific Plan project. The City has held six community workshops, seventeen City Council and/or Planning Commission and/or study sessions representing over 100 hours of community engagement throughout the life of the Downtown Project. Tonight's public hearing was duly noticed with a ¼ page display ad in The Beach Reporter (Attachment 3). The Downtown Business and Professional Association and the Chamber of Commerce and other interested parties were notified of tonight's hearings.

#### **ENVIRONMENTAL REVIEW**

The City has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that there is no possibility that the activity may have a significant effect on the environment; therefore, pursuant to Section 15061(b)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is necessary.

#### **LEGAL REVIEW**

Government Code Section 36937(b) provides that a City Council may by 4/5<sup>th</sup> vote, adopt urgency ordinances that take effect immediately. The City Attorney has approved as to form both draft Ordinances.

#### **Attachments:**

1. Urgency Ordinance No. 18-0019-U
2. Ordinance No. 18-0019
3. Public Hearing Notice