



CITY COUNCIL STAFF REPORT

TO: Honorable Mayor and City Council **DATE:** July 27, 2020

FROM: Matthew Bronson, City Manager

PREPARED BY: Matthew Bronson, City Manager
David Hale, City Attorney
Bruce Buckingham, Community Development Director
Greg Ray, Public Works Director

SUBJECT: Outdoor Business Operation in Private and Public Spaces

RECOMMENDATION

Receive information about an approach to support and expand outdoor business operation in private and public spaces to protect public safety given COVID-19 public health restrictions and adopt a Resolution to authorize the City Manager to implement this approach including temporary strategies for use of public rights-of-way.

BACKGROUND

The City of Grover Beach recognizes the public health and safety issues related to COVID-19 and the current restrictions on indoor operations imposed on businesses due to recent orders of the California Department of Public Health (CDPH). Due to the continued spread of COVID-19, the CDPH issued on July 13, 2020 a statewide order closing all indoor operations of establishments like bars, pubs, brewpubs, wineries, and family entertainment centers. The City further recognizes the financial hardship that local businesses are experiencing as a result of the State's public health requirements that limit business operations to reduce the spread of COVID-19. The City has taken several actions to support our business community during this crisis including waiving late fees for utility payments and developing a \$150,000 microgrant program in partnership with the South County Chambers of Commerce to provide direct assistance to local businesses. The City has worked hard at developing a pro-business approach in recognition of the contributions and importance of our local business community particularly in this time of need.

Given the State's public health order to restrict indoor dining, restaurants and other dining establishments must serve customers outdoors or by takeout or delivery. This limitation is also true for hair salons, barbershops, and nail salons which can only operate outdoors. Similar to other cities such as San Luis Obispo, City staff has developed an approach for the Council's consideration to help businesses make a temporary or permanent transition to providing outdoor dining and business space which promotes a greater level of public safety, limits the continued spread of COVID-19, and further meets State public health guidance including physical distance, use of face coverings by employees, and sanitation practices. This proposed approach is based on a flexible and adaptive use of both private and public outdoor space and incorporates four strategies as outlined below:

1. *Use of parking lots for expansion of commercial uses for outdoor dining spaces*

A common way for a restaurant or other business to create or expand temporary outdoor space is by using an off-street parking lot adjacent to the business. This is particularly

pertinent for off-street private parking lots as there are relatively few public parking lots that are adjacent to businesses for outdoor operations. Use of private off-street parking facilities involves issuance of a Temporary Use Permit while use of public off-street parking facilities requires an Encroachment Permit for use of public right-of-way. Both permits would be issued through an expedited review process within 48 hours of submittal of a complete application and the City could issue the permit “after the fact” to allow businesses to move quickly in opening outdoor dining options pending compliance particularly in the case of private parking lots. As an example, accessible parking spaces could not be blocked as part of this outdoor use. Staff has internally waived all associated fees for the permitting process except for required building permits. Several restaurants along with personal care services businesses have begun such expansion in parking lots and staff would work with them on the “after the fact” permits.

2. Use of public sidewalks for outdoor dining space

The second strategy is use of public sidewalks for outdoor dining spaces or pedestrian uses which could assist restaurants that do not have readily available access to a parking lot or have an outside patio. This strategy includes locating small tables in the sidewalk area next to the restaurant while allowing for safe and accessible passage by pedestrians with at least four feet of unobstructed pathway and no blocking of accessible corner ramps. Sidewalk seating is currently allowed in most zones along West Grand Avenue with an approved Administrative Development Permit and Encroachment Permit. Such permits would also be issued through an expedited review process within 48 hours of submittal of a complete application and the City could issue the permit “after the fact” to allow businesses to move quickly in opening outdoor dining options pending compliance.

3. Use of “parklets” in select on-street parking spaces for outdoor dining space

The third strategy is installation of “parklets” which is a temporary use of an on-street parking space for seating and outdoor dining. The first parklet was created in 2005 in San Francisco and is now a feature in many cities around the state including Long Beach, Oakland, Morgan Hill, Los Altos, Santa Monica, Los Angeles, Pleasanton, Redding, and San Mateo. While many of these cities have had parklets for several years, some cities are creating temporary parklets now given the public health restrictions to indoor dining. Locally, San Luis Obispo is currently installing parklets as part of the city’s “Open SLO” program and other cities are considering similar temporary applications.

There have not been parklets installed to date in Grover Beach though this could be a unique opportunity to experiment with such an installation. One approach is that the City could fund and install temporary parklets at 1-2 locations near restaurants or dining establishments with specific locations to be determined based on local business interest, community feedback, and traffic safety. The City could then allow private use for outdoor dining through the existing encroachment permitting process. The parklets would need to be designed and installed in a way that met traffic safety standards and public health guidance and applicants would need to provide liability insurance to minimize risk to the City. The estimated one-time cost is approximately \$10,000 per parklet. Given that these parklets would for now be temporary, any interest in future use on a permanent basis will entail further changes to the City’s circulation element of the General Plan or changes in the City’s possessory interest in the applicable public rights-of-way.

4. Work with businesses to allow permanent outdoor dining space on private property

Lastly, the City could work with businesses to create permanent outdoor dining space on private property in addition to enabling businesses to temporarily establish such spaces. Creating permanent spaces is more costly for a business but creates a long-term solution for allowing more outdoor activity and expanding outdoor dining at a time when returning to indoor

dining is uncertain. This solution may be more limited as businesses do not always have usable outdoor space and this work would take more time than one of the temporary solutions identified earlier. However, this could be a viable long-term approach for applicable businesses and the City could consider one-time grant funds to assist these businesses with this work through an application process similar to the microgrant program. Such a grant could be done on a matching basis up to a certain amount (e.g. \$5,000) to encourage some degree of private investment. Along with the other strategies, the City would expedite the permit review process to enable the business to move quickly with this work.

Staff is asking for the Council's consideration of this proposed approach for expanding outdoor dining and business use as well as direction in proceeding towards implementation. Attachment 1 contains a Resolution that would authorize the City Manager to implement this approach which includes temporary strategies for use of public rights-of-way. Staff would propose that temporary permits be approved within 48 hours of receipt of a complete application and last until such time as the State amends its current emergency orders and the City rescinds its resolution of emergency, or any shorter period of time. More permanent implementation of the above strategies particularly regarding parklets would necessitate additional findings that staff would bring to the Council for approval.

Pending Council direction on this approach to outdoor business operation, staff would work with the South County Chambers of Commerce to implement this approach and solicit interest from the business community. There could be other strategies the Council may want to also consider such as having outdoor dining spaces in City parks such as Ramona Park, encouraging "pop-up" spaces for dining and other outdoor activities elsewhere in the city, or enacting temporary street closures to facilitate pedestrian access and expanded outdoor dining. There is merit in these concepts though staff felt that they were not as immediately tangible or beneficial as the four strategies outlined above and could elicit concerns particularly with street closures.

Lastly, staff would like to engage the Council about use of City funds to support these efforts. While allowing use of parking lots and street closures do not directly involve City funds, the City could consider providing funding for installation of parklets and grant funds to businesses in expanding outdoor dining space. As a proposal, the Council could consider allocating \$50,000 out of the \$160,000 in one-time CARES Act funding the City is receiving in this year's State budget that must be spent on COVID-related purposes by December 31, 2020. This \$50,000 in funding could fund two parklets (\$20,000) along with \$30,000 in grant funds to help support businesses in creating these permanent outdoor areas. Staff would plan to return to the Council at an upcoming meeting with potential uses of the remaining amount in CARES Act funding.

FISCAL IMPACT

The recommended action would be funded by \$50,000 in one-time CARES Act funding the City is receiving in this year's State budget and thus there would be no impact to the General Fund.

ALTERNATIVES

The City Council has the following alternatives to consider:

1. Receive information about an approach to support and expand outdoor dining in private and public spaces to protect public safety given COVID-19 public health restrictions and adopt a Resolution to authorize the City Manager to implement this approach including temporary strategies for use of public right-of-way; or
2. Adopt a modified version of the Resolution; or

3. Do not adopt Resolution; or
4. Provide alternative direction to staff.

PUBLIC NOTIFICATION

The agenda was posted in accordance with the Brown Act. A copy of this staff report and the meeting agenda was provided to the South County Chambers of Commerce.

ATTACHMENTS

1. Resolution

RESOLUTION NO. 20-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH, CALIFORNIA, AUTHORIZING THE CITY MANAGER TO APPROVE TEMPORARY CLOSURES OF PUBLIC RIGHTS-OF-WAY FOR THE SAFETY AND PROTECTION OF THE PUBLIC WHO USE THE PUBLIC RIGHTS-OF-WAY

WHEREAS, California Vehicle Code Sections 21101(e) allows municipalities to adopt rules and regulations by ordinance or resolution authorizing the closure of any public rights-of-way or street temporarily for celebrations, special events, or other purposes when in the opinion of the local authorities having jurisdiction or a public officer or employee that the local authority designates by resolution, the closing is necessary for the safety and protection of persons who are to use that portion of the street during the temporary closing; and

WHEREAS, California Vehicle Code Sections 21101(f) allows municipalities to adopt rules and regulations by ordinance or resolution authorizing the closure of entry to, or exit from, or both, from any street by means of islands, curbs, traffic barriers, or other roadway design features to implement the circulation element of a general plan adopted pursuant to Article 6 (commencing with Section 65350) of Chapter 3 of Division 1 of Title 7 of the Government Code. The rules and regulations authorized by this subdivision shall be consistent with the responsibility of local government to provide for the health and safety of its citizens; and

WHEREAS, conditions of peril to the safety of persons and property have arisen within the City of Grover Beach, due to the Novel Coronavirus (COVID-19); and

WHEREAS, on March 4, 2020, the governor of the State of California declared a state of emergency due to conditions caused by COVID-19; and

WHEREAS, on March 13, 2020, the Director of Emergency Services for the County of San Luis Obispo declared a state of emergency due to conditions caused by COVID-19 and issued County of San Luis Obispo's Local Emergency Order and Regulation No. 4; and

WHEREAS, on March 13, 2020, the President of the United States declared a state of emergency due to conditions caused by COVID-19; and

WHEREAS, on March 16, 2020, the City Council of the City of Grover Beach declared a state of emergency within the City of Grover Beach due to conditions caused by COVID-19; and

WHEREAS, the statewide data has since demonstrated a significant increase in the spread of COVID-19 resulting in public health conditions that demand measures responsive to those conditions be put into place with haste; and

WHEREAS, in response to the increasing spread of COVID-19, on June 28, 2020 the California Department of Public Health (CDPH) issued guidance setting forth the need to close indoor dining along with similar business establishments in the county due to concerning levels of disease transmission, hospitalizations and insufficient testing or other critical epidemiological markers; and

WHEREAS, on July 1, 2020, CDPH issued guidance specific to counties on the State's County Monitoring list for three consecutive days which currently includes San Luis Obispo

County, requiring closure of all indoor operations of various sectors, including restaurants, wineries, and certain entertainment venues, as well as all bars indoor and outdoor; and

WHEREAS, on July 13, 2020, CDPH issued a Statewide Public Health Officer Order, applying the restrictions of July 1, 2020 statewide and for public safety closing all indoor operations and seating for dine-in restaurants, wineries and tasing rooms, and family entertainment centers, while outdoor seating may continue subject to the CDPH's guidance for outdoor dining, wineries and bars, and family entertainment centers, and

WHEREAS, the July 13, 2020 order is to remain in effect as a temporary measure until the State Public Health Officer and Director of the California Department of Public Health determines it is appropriate to modify the order; and

WHEREAS, the City of Grover Beach may determine that for the public safety, it will allow certain partial closures of public rights-of-way that be necessary to accommodate the above business establishments to afford safer accommodations of service to the public in a manner that significantly lessens the potential of disease transmission; and

WHEREAS, it has been shown that outdoor accommodations for the above services has been determined under certain circumstances by the CDPH to be acceptable and safer for the public and is therefore allowed under the July 13, 2020 order; and

WHEREAS, any partial closure of public rights-of-way shall be subject to a temporary traffic control and detour plan approved by the City's Director of Public Works; and

WHEREAS, any partial closure of public rights-of-way shall be approved as necessary to accommodate the above public safety objectives by the City Manager.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Grover Beach as follows:

SECTION 1. The above WHEREAS provisions are hereby incorporated by reference as set out in full and shall carry the same force and effect as any other provision of this Resolution.

SECTION 2. Authorizes the City Manager or his/her designee(s), to approve the temporary closure of public rights-of-way including streets and on-street parking spaces special events, construction activities, or other purposes arising from the COVID-19 pandemic, where it is the opinion of the City Manager or his/her designee(s) that closure of the street is necessary for the safety and protection of the public who use that portion of the street.

SECTION 3. Authorize the City Manager or his/her designee(s), to assist local business to create or expand temporary outdoor space by using off-street parking lots adjacent to the business and to assist businesses in the use of public sidewalks for outdoor uses that would be consistent with the State's COVID-19 guidelines. This would also include working with businesses to allow permanent outdoor dining space on private property.

SECTION 3. Notwithstanding any other City policy or procedure, the City Manager or his/her designee(s) shall be authorized to review and approve on behalf of the City any and all temporary traffic control, signage and public noticing plans associated with implementation any proposed temporary street closures.

SECTION 3. Environmental Review. The potential temporary closure of public streets is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) as follows:

The project is categorically exempt under State CEQA Guidelines Section 15301 (Existing Facilities) because the actions identified in the program are limited to the permitting, leasing, and minor alteration of existing public facilities, including existing streets, sidewalks, bicycle and pedestrian trails, which would not result in the creation of additional automobile lanes. The program would result in a negligible expansion of existing commercial uses and a negligible expansion of the public's use of City right-of-way, as the uses included in the temporary program would not vary from the current uses of commercial businesses, residential areas, or public access within the City's right-of-way.

Upon motion of Council Member _____, seconded by Council Member _____, and on the following roll call vote, to wit:

AYES: Council Members -
NOES: Council Members -
ABSENT: Council Members -
ABSTAIN: Council Members -

the foregoing Resolution was **PASSED, APPROVED** and **ADOPTED** at a special meeting of the City Council of the City of Grover Beach, California this 27th day of July 2020.

****DRAFT****

JEFF LEE, MAYOR

ATTEST:

WENDI SIMS, CITY CLERK