



CITY OF CARMEL-BY-THE-SEA CITY COUNCIL AGENDA

Mayor Dave Potter, Council Members Jeff Baron,
Karen Ferlito, Bobby Richards, and Carrie Theis
Contact: 831.620.2000 www.ci.carmel.ca.us

All meetings are held in the City Council Chambers
East Side of Monte Verde Street
Between Ocean and 7th Avenues

CITY COUNCIL SPECIAL MEETING Wednesday, January 20, 2021 5:00 PM

Governor Newsom's Executive Order N-29-20 has allowed local legislative bodies to hold public meetings via teleconference and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body. Also, see the Order by the Monterey County Public Health Officer issued March 17, 2020. The health and well-being of our residents is the top priority for the City of Carmel-by-the-Sea. To that end, this meeting will be held via teleconference and web-streamed on the City's website ONLY.

To attend via Teleconference; 1 856-494-6815 PIN: 847 755 004#

The public can also email comments to cityclerk@ci.carmel.ca.us. Comments must be received 2 hours before the meeting in order to be provided to the legislative body. Comments received after that time and up to the beginning of the meeting will be added to the agenda and made part of the record.

OPEN SESSION

CALL TO ORDER AND ROLL CALL

PUBLIC APPEARANCES

Members of the Public are invited to speak on any item that does not appear on the Agenda and that is within the subject matter jurisdiction of the City Council. The exception is a Closed Session agenda, where speakers may address the Council on those items before the Closed Session begins. Speakers are usually given three (3) minutes to speak on any item; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak. If an individual wishes to submit written information, he or she may give it to the City Clerk. Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

ORDERS OF BUSINESS

Orders of Business are agenda items that require City Council, Board or Commission discussion, debate, direction to staff, and/or action.

1. Outdoor Seating in the Public Way

ADJOURNMENT

This agenda was posted at City Hall, Monte Verde Street between Ocean Avenue and 7th Avenue, outside the Park Branch Library, NE corner of Mission Street and 6th Avenue, the Carmel-by-the-Sea Post Office, 5th Avenue between Dolores Street and San Carlos Street, and the City's webpage <http://www.ci.carmel.ca.us> in accordance with applicable legal requirements.

SUPPLEMENTAL MATERIAL RECEIVED AFTER THE POSTING OF THE AGENDA

Any supplemental writings or documents distributed to a majority of the City Council regarding any item on this agenda, received after the posting of the agenda will be available for public review at City Hall located on Monte Verde Street between Ocean and Seventh Avenues during regular business hours.

SPECIAL NOTICES TO PUBLIC

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at 831-620-2000 at least 48 hours prior to the meeting to ensure that reasonable arrangements can be made to provide accessibility to the meeting (28CFR 35.102-35.104 ADA Title II).



CITY OF CARMEL-BY-THE-SEA CITY COUNCIL Staff Report

January 20, 2021
ORDERS OF BUSINESS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Marnie Waffle, AiCP – Acting Community Development Planning & Building Director
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Outdoor Seating in the Public Way

RECOMMENDATION:

Receive report and provide direction.

BACKGROUND/SUMMARY:

The Outdoor Seating in the Public Way program allows full-line restaurants, specialty restaurants (i.e. coffee shops), wine tasting rooms and bars (operating as restaurants) to establish outdoor seating areas in the public way. Full-line restaurants, some wine tasting shops and bars operating as restaurants, are allowed up to two public parking spaces and 16 seats and specialty restaurants are allowed one parking space and 8 seats. Sidewalk seating may also be permitted depending on the availability of space which varies from location to location.

Outdoor seating areas located in public parking spaces are required to have a barrier that is between 3' and 4' tall surrounding the seating area and must be of a substantial weight (50-100 pounds). The barrier defines the boundaries of the outdoor seating area and provides a visual and physical separation between patrons and vehicles. Outdoor seating areas may also include umbrellas and/or heaters. Umbrellas are required to be removed from the public way at the close of business daily and stored on private property. Heaters may remain within outdoor seating areas but propane tanks are required to be removed and safely stored on private property. Each outdoor seating area is required to provide a private trash receptacle to minimize impacts on City-supplied trash receptacles.

Restaurants that have private patios approved as part of their Use Permits may continue to use these areas. Expansion of outdoor seating beyond what is allowed under the Use Permit requires a no-fee Design Review permit. At no time can an outdoor seating area on private property obstruct the path of travel for persons with disabilities or obstruct required egress from buildings. Property owner approval is required for all outdoor seating areas on private property.

State and County Orders

On December 3, 2020, the State of California issued a Regional Stay-At-Home Order in response to a rise in COVID-19 cases, hospitalizations and test positivity rates. The Order states that when Intensive Care

Unit (ICU) bed capacity falls below 15% in a region, the Regional Stay-At-Home Order shall remain in effect for 3 weeks. (Note: Monterey County is part of the Bay Area Region for the purpose of the State Order.)

On December 9, 2020, Monterey County proactively issued an Order commencing the terms of the Regional Order in advance of ICU capacity falling below 15%. The Order took effect at 10:00 pm on Sunday, December 13, 2020 and was set to expire at 6:00 am on Monday, January 11, 2021.

On December 17, 2020, State officials announced that the Bay Area Region would be entering the Regional Stay-At-Home Order at 11:59 pm due to the ICU capacity falling below 15%. The Order was set to expire on January 8, 2021 but has since been extended until further notice.

Since December 13, 2020, all outdoor dining has been closed and restaurants limited to take-out and delivery only. What was originally expected to be a 3-week closure of outdoor dining has now been extended for an undetermined amount of time. As a result, local municipalities are considering the use of outdoor seating areas in the public way as picnic areas where people can safely consume their take-out while enjoying the outdoors. This type of activity is currently allowed at the beach, parks and other public areas. The Council is being asked to consider whether existing “parklets” which currently occupy 80 parking spaces in the commercial area (restaurants [67 spaces] and wine tasting rooms [13 spaces] combined) should be open for public use.

Questions for Discussion

1. Should “picnicking” be allowed within permitted outdoor seating areas in the public way?
 - a. Limit to permitted “parklets” in the public right-of-way?
 - b. Allow in permitted “parklets” and approved sidewalk seating in the public right-of-way?
 - c. Allow in all approved outdoor seating areas (public and private)?

If allowed, staff recommends the following:

- a. Permit holders must have current insurance certificates on-file with the City for outdoor seating in the public way;
- b. Table service should be strictly prohibited;
- c. Signs should be posted prohibiting the public consumption of alcohol;
- d. Seating areas should be open to the public at-large, not just patrons of a particular establishment;
- e. Permit holders should be responsible for regular sanitizing of the seating area;
- f. Permit holders should provide adequate receptacles for all trash, be responsible for emptying receptacles throughout the day, and dispose of all trash within their private trash collection area;
- g. Permit holders should comply with biodegradable/compostable packaging, straws and utensils;
- h. Approved umbrellas may be used but should be removed at the close of business each day;
- i. Heaters should be prohibited; and
- j. All mask and social distancing protocols remain in effect and must be followed.

FISCAL IMPACT:

Encroachment Permits and Design Review permits associated with outdoor seating are being issued as “no-fee” permits. Costs associated with staff time to manage and enforce the outdoor seating program are covered by the General Fund.

PRIOR CITY COUNCIL ACTION:

At the June 2, 2020 meeting the City Council adopted Resolution 20-038 updating the City’s insurance requirements. Insurance is required for most encroachment permit applications including outdoor seating in

the public way.

On June 16, 2020, the City Council provided direction on modifications to the outdoor seating program.

On July 7, 2020, the City Council expanded the outdoor seating program to include wine tasting rooms and made other minor modifications to the program.

On August 4, 2020, the City Council adopted Urgency Ordinance 2020-005 for the enforcement of provisions and conditions of Encroachment Permits for outdoor dining and authorized the Code Compliance Officer to issue citations. The Council also received a report on the outdoor seating program and provided direction on a number of topics.

On December 8, 2020, Staff provided an update on the outdoor seating program and sought direction on extending the program.

ATTACHMENTS: