



DATE: April 13, 2021

CATEGORY: Consent

DEPT.: Community Development and Public Works

TITLE: **Resolutions Temporarily Suspending Certain Requirements for Sidewalk Café License Renewals Pursuant to Mountain View City Code Section 36.42 and Waiving Sidewalk Café License Renewal Fee Payments Payable May 1, 2020 through April 30, 2022 to Facilitate a Consistent Outdoor Dining Program in the Downtown Area and Extending the Castro Street Closure**

RECOMMENDATION

1. Adopt a Resolution of the City Council of the City of Mountain View Temporarily Suspending Certain Requirements for Sidewalk Café License Renewals Pursuant to Mountain View City Code Section 36.42 and Waiving Sidewalk Café License Renewal Fee Payments Payable May 1, 2020 through April 30, 2022 to Facilitate a Consistent Outdoor Dining Program in the Downtown Area, to be read in title only, further reading waived (Attachment 1 to the Council report).
2. Adopt a Resolution of the City Council of the City of Mountain View Amending Resolution No. 18470, as Amended By Resolution Nos. 18489 and 18496, Temporarily Suspending and Designating Parking Restrictions and Prohibitions Pursuant to Mountain View City Code Chapter 19 and Temporarily Closing the 100, 200, 300, and 400 Blocks of Castro Street Pursuant to California Vehicle Code Section 21101 to Facilitate Outdoor Dining and Outdoor Business Operations, to be read in title only, further reading waived (Attachment 2 to the Council report).

BACKGROUND

The purpose of this report is to request approval to temporarily suspend the requirements of and waive the fees for the Downtown Sidewalk Café Program to support downtown business recovery. In order to provide businesses with time to reapply for the Downtown Sidewalk Café when it is reinstated, staff is seeking approval of a six-week extension of

the Castro StrEATs Program, resulting in a total of eight weeks between the end of the local state of emergency and the conclusion of the Castro StrEATs Program.

Sidewalk Café Program

The City's Downtown Sidewalk Café Permit program allows outdoor dining by an adjoining restaurant in "flexible zones" in the Downtown Precise Plan area, which includes parking spaces along Castro Street and the sidewalk areas of commercial streets. Downtown Sidewalk Café Permit participants are required to obtain a Sidewalk Café License and adhere to requirements that include design review, inspections, fee payments, insurance compliance, and annual renewal requirements. Annual renewal requirements include an application, insurance requirements, landscape contracts, and fees, which are due at the end of April each year with license terms beginning May of every year. The fee is \$769 for new licenses and \$205 for renewals. Rental fees are \$1,200 per parking space and \$6 per square foot of sidewalk used. As of 2020, 33 businesses participated in the Sidewalk Café Permit program.

Castro StrEATs Program

On March 17, 2020, the County of Santa Clara issued a Shelter-in-Place Order in response to the COVID-19 pandemic, which required almost all nonessential businesses to close in-person activities. On March 17, 2020, the Mountain View City Council also adopted a resolution declaring the [Existence of a Local Emergency](#) in relation to COVID-19. Given the severely strained financial conditions and inability to operate businesses as usual, some restaurants that previously had valid sidewalk café licenses did not fulfill their Sidewalk Café License requirements in a timely manner. The City, in response to the difficulties facing restaurants at that time, deferred paperwork requirements to October 2020 and deferred payments to the end of the local emergency. Despite the extended deadline, some businesses were unable to submit the required paperwork, resulting in an expired permit.

On June 1, 2020, the County Public Health Order was amended with a new directive that allowed for outdoor dining but continued the prohibition on indoor dining. Following this County Order, the City Council adopted [Resolution No. 18470](#) on June 9, 2020 to temporarily close the 100, 200, 300, and 400 blocks of Castro Street between West Evelyn Avenue and Mercy Street to vehicular traffic with continued motor vehicle access across Castro Street at each of the side streets. This program, known as Castro StrEATs, was implemented to facilitate outdoor dining within the public right-of-way, allow for social distancing, and support the recovery of Mountain View's downtown businesses.

As part of the Castro StrEATs program, Council agreed that each participating restaurant enter into a waiver and indemnification agreement with the City and maintain insurance for their establishments, outside café areas, and, if applicable, liquor liability. This vendor participation agreement was designed to cover many of the requirements that had previously been addressed through the Sidewalk Café License requirements with the exception of program fees and insurance requirements.

On August 25, 2020, the City Council amended the Castro StrEATs program through the adoption of [Resolution No. 18489](#), which extended the City’s prohibition on the operation of bicycles and transportation devices along Castro Street sidewalks to the closed blocks of Castro Street for the duration of the Castro StrEATs program. Council also adopted [Resolution No. 18496](#) on September 8, 2020, which expanded the Castro StrEATs program beyond outdoor dining to other uses, such as fitness services. The latter resolution also extended the program duration to two weeks after the end of the City’s local emergency declaration and authorized the Public Works and Community Development Directors to make additional modifications to the Castro StrEATs program as needed.



Figure 1: Castro StrEATs Program in 2020

On March 24, 2021, the County of Santa Clara moved into the orange tier as defined by the State Blueprint for a Safer Economy. Under the orange tier, restaurants are now permitted to operate indoors at a maximum of 50 percent capacity or 200 people, whichever is lower, provided that certain modifications are in place. It is unclear when the local state of emergency will be lifted.

ANALYSIS

As the City moves toward less restrictive conditions, staff has commenced preparations to evaluate and wind down the Castro StrEATs and outdoor business programs and to reinstate the Sidewalk Café Program.

Feedback on Castro StrEATs Program from Community Members and Users

The first component of program evaluation includes community feedback, which was obtained via an online survey that has been available since July 2020. Information regarding the online survey was provided on A-frames posted on the 100, 200, 300, and 400 blocks of Castro Street throughout the Castro StrEATs program.

In total, 223 responses were received. Two-thirds of respondents identified as living or working in Mountain View, and nearly one-third identified as a local visitor visiting Castro Street from somewhere else within the Bay Area. Fewer than 2 percent of respondents identified as tourists from elsewhere.

Over 70 percent of respondents indicated that they had visited Castro Street multiple times since the program began, which suggests that the program was successful in attracting repeat visits. Most visits were for outdoor dining or food pickup. Other activities included exercise or walking, with a smaller number who visited for shopping.

Survey feedback indicated very strong user and community support for the Castro StrEATs program. Approximately 95 percent of users reported that they felt positively about the program. Additionally, while the survey did not request feedback regarding long-term conditions, a majority of the respondents provided open-ended feedback that they would like Castro Street to be remain as a pedestrian plaza permanently or be considered as a pedestrian plaza in the long term.

Feedback on Castro StrEATs Program from Business Owners and Operators

The Castro StrEATs program was developed and implemented with extensive outreach to businesses, including coordination with the Chamber of Commerce, Downtown Business Association, and meetings with individual business owners and operators. Throughout the program, staff has continued to obtain feedback and make refinements to the program via in-person meetings on Castro Street, multiple surveys of businesses, e-mail communications, staff walking Castro Street on a weekly basis, and updates at the Downtown Committee meetings.

Over the past 12 months, staff has also provided information to businesses about the changing County of Santa Clara Public Health Orders, including the fall 2020 announcement of the State of California Blueprint for a Safer Economy and the December 2020 Stay-at-Home Order which closed outdoor dining and other outdoor services. Following the December Stay-at-Home Order, staff surveyed businesses about whether they preferred to maintain the existing arrangement or reopen Castro Street to motor vehicles while outdoor dining was prohibited. At the time, a majority of the businesses along the 100, 200, and 300 blocks preferred to maintain the existing configuration so businesses could quickly resume outdoor dining once it was allowed.

Staff also worked with businesses to develop cold-weather guidelines, including allowing use of a temporary structure (e.g., tents, canopies) on the right-of-way. Staff provided an expedited review and met with businesses when additional clarification was needed. Staff anticipates the cold-weather guidelines will continue to be in place until the spring rain decreases.

In March 2021, City staff conducted outreach meetings and a survey to obtain updated feedback on business impacts of the Castro StrEATs program and to discuss the proposed Sidewalk Café Permit recommendations. A summary of the key findings includes:

- While revenues continue to be lower than pre-COVID conditions, most businesses continue to see slight or significant improvement in business revenues since the start of the program.
- Businesses support keeping the street closed to vehicular traffic for as long the COVID-19 pandemic continues and during the recovery period. The outdoor dining and outdoor business operations allow businesses to gain extra capacity to recuperate lost revenues. A minority of the businesses continue to request reopening the street and/or Castro Street at Central Expressway.

- Businesses with existing Sidewalk Café Permits support the fee waiver (discussed below).

Sidewalk Café Program

It was unknown how long the pandemic closures were going to last and the Castro StrEATs program would be in effect, so businesses that previously participated in the sidewalk café program signed vendor participation agreements for the Castro StrEATs program as it also allowed for larger outdoor dining operations. The Castro StrEATs program was designed with similar parameters to the sidewalk café program but with no fee payment or other requirements related to traffic barricade planters, insurance documentation, and specific design requirements.

In order to alleviate hardships brought about by the pandemic and create consistent procedural requirements for all participating restaurants in the downtown area while the Castro StrEATs program is in place, staff proposes that sidewalk café requirements be temporarily suspended and fee payments waived retroactively for license terms 2020-21 and 2021-22. Each license year begins in May and ends in April. Staff proposes that all restaurants with outdoor dining abide by the Castro StrEATs program parameters, including those restaurants that would otherwise be subject to the Sidewalk Café Program, and sign vendor participation agreements. This vendor participation agreement indemnifies the City for any damages that occur in the right-of-way and formalizes compliance with program requirements. Some businesses submitted sidewalk café fees in 2020-21, and staff recommends that these fees be refunded.

Based on the Council resolution adopted on September 8, 2020, the Castro StrEATs program is scheduled to conclude two weeks after the end of the local state of emergency declaration. At that time, businesses that wish to resume sidewalk café activities would need to apply for a new Sidewalk Café Permit or renew their previous Sidewalk Café Permit, including submittal of the renewal application and insurance documentation.

In order to allow businesses time to gather the required paperwork and complete the necessary requirements, staff is proposing that the transition period be extended to up to eight weeks after the end of the local state of emergency. The current deadline for renewal paperwork and fee payments for the 2021-22 license period is April 30, 2021. Temporarily suspending Sidewalk Café Program requirements up to eight weeks after the end of the local state of emergency, to be determined by the Public Works and Community Development Directors, would postpone the renewal paperwork deadline

until that time. The proposed fee waiver for 2021-22 would allow renewal with no fee payments until April 30, 2022 for the 2022-23 license year.

In preparation for this transition, staff has encouraged businesses that would like a Sidewalk Café Permit after the conclusion of the Castro StrEATs program to begin the application process as soon as possible so that they are ready to operate their sidewalk cafés when Castro Street reopens to vehicular traffic. It should be noted that the Sidewalk Café Permit program allows a maximum of 32 parking spaces to be utilized for outdoor dining. Before the Castro StrEATs program, 25 parking spaces were utilized for sidewalk café operations. During business outreach conversations, four additional businesses indicated that they plan to apply for new Sidewalk Café Permits which use a parking space within the flex zone after the conclusion of Castro StrEATs, which would bring the parking space utilization almost to maximum capacity.

Castro StrEATs Wind-Down

Wind-down of the Castro StrEATs and outdoor business programs following the end of the state of emergency will involve a number of activities, including:

- Removal and return of equipment, such as bollards, barricades, and picnic tables;
- Street cleaning and repainting of some surfaces;
- Reestablishment of solid waste routes and services along Castro Street;
- Reprogramming of traffic signals and removal of short-term parking;
- Reinstating the Sidewalk Café Program through the annual renewal process or initial application process for new businesses;
- Coordination with Caltrain and the County to reprogram expressway signals, reopen the railway crossing, and remove detour signage; and
- Coordination with VTA to reestablish bus routes, including removal of temporary stops, rerouting services, and labor negotiations regarding driver assignments.

As indicated in the Council resolution from September 8, 2020, the current window for this wind-down activity is a two-week period following the end of the local state of emergency. Staff does not typically receive advance notice from the State or County on

changes in Public Health Orders and, therefore, does not anticipate receiving advance notice regarding the end of the state of emergency in Santa Clara County.

Annual renewal of the Sidewalk Café Program typically takes approximately two to three months to complete, including submission of applications, insurance documentation and program fees by all participating businesses, and follow-up activities and verification by City staff. Given the current financial hardships and COVID-related workplace changes experienced by businesses, staff anticipates that reinstatement of the Sidewalk Café Program will require a lead time of two months at the end of the Castro StrEATs program.

For this reason, staff proposes that the program be extended by up to six weeks in addition to the two-week wind-down period previously anticipated to allow sufficient time to implement wind-down activities. As described in Attachment 2, this would result in a program sunset period of up to eight weeks following the end of the local state of emergency. If all activities are completed sooner, some or all blocks of Castro Street could reopen to motor vehicle traffic before the end of the eight weeks.

Resolutions Recommended for Council Adoption

As discussed above, the authority granted to the Public Works and Community Development Directors in relation to the Castro StrEATs program does not include any authority for the Directors to modify the Sidewalk Café License Program and related road closure extensions. Thus, any Sidewalk Café Program modifications and extensions of the road closure as recommended by staff require Council adoption of resolutions.

Long-Term Plans for Castro Street

Staff is continuing to move forward with the following two projects related to long-term plans for Castro Street:

1. Implementation of the Transit Center Grade Separation Project, which includes permanently closing the Castro Street at-grade crossing of the Caltrain tracks and Central Expressway and constructing a bicycle and pedestrian undercrossing of the Caltrain tracks and Central Expressway.
2. Completing the Castro Street Pedestrian Mall Feasibility Study, which is studying concepts for a pedestrian plaza/ mall at the end of Castro Street, including strategies such as realigning Castro Street along Centennial Plaza, partial or full closure of Castro Street, and shared street strategies.

Staff will also continue to monitor business and community feedback on the current Castro StrEATs program and the closure of Castro Street to vehicular traffic. If, prior to the wind-down of the Castro StrEATs program, there appears to be significant support in continuing to keep one or more blocks Castro Street open to outdoor uses and pedestrians on a longer-term basis, staff will return to Council for further direction.

FISCAL IMPACT

The total fiscal impact would result in a loss of \$83,736 of annual renewal (\$769 for new licenses or \$205 for annual renewals) and rental fees (\$1,200 per parking space plus \$6 per sidewalk square foot used) collected from the Sidewalk Café Program for Fiscal Years 2020-21 and 2021-22.

ALTERNATIVES

1. Do not approve the resolutions.
2. Adopt alternative resolutions.
3. Provide other direction to staff.

PUBLIC NOTICING

Agenda posting and e-mail distribution to Downtown Committee and Bicycle/Pedestrian Advisory Committee along with the Downtown Business Association, Mountain View Chamber of Commerce, and Old Mountain View Neighborhood Association.

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- Attachments: 1. Resolution Temporarily Suspending Certain Sidewalk Café Renewal Requirements and Waiving Sidewalk Café License Renewal Fee Payments Payable May 1, 2020 through April 30, 2022
2. Resolution Extending the Castro Street Closure