

# CITY OF CALISTOGA

## STAFF REPORT

**TO:** CHAIR MANFREDI AND MEMBERS OF THE PLANNING COMMISSION  
**FROM:** CHARLENE GALLINA, PLANNING & BUILDING DIRECTOR  
**DATE:** SEPTEMBER 24, 2008  
**SUBJECT:** ZONING ORDINANCE AMENDMENT (ZO 2004-02) – SIDEWALK DINING WITHIN THE PUBLIC RIGHT-OF-WAY

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1 **ISSUE:**  
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3 **ZO 2004-02.** Consideration of an amendment to the Calistoga Municipal Code and  
4 Zoning Ordinance establishing provisions to authorize sidewalk dining establishments in  
5 the Commercial Land Use Districts in the City of Calistoga.  
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7 **BACKGROUND/DISCUSSION:**  
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9 In response to City Council adoption of Resolution No. 2007-86 which approved the  
10 Community Resources Commission Work Plan for Fiscal Year 2007/2008, the Planning  
11 & Building Department was requested to assist the Community Resources Commission  
12 (CRC) in bringing forward an updated Sidewalk Dining Ordinance that was placed on  
13 hold by the City Council on June 15, 2004. In 2004, this item was tabled to allow for  
14 more exploration of options in getting Caltrans to authorize outdoor dining in the Lincoln  
15 Avenue right-of-way. A copy of the June 15, 2008 City Council Staff Report for this item  
16 has been attached for your review.  
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18 In response to this request, the Planning & Building Department presented for the  
19 Community Resources Commission's review a slightly modified draft of this Ordinance  
20 on April 16, 2008. In response to the comments received by the CRC, staff modified the  
21 proposed Ordinance to provide clarification and/or to simplify the processing and  
22 implementation of sidewalk dining in public rights-of-way. These changes were  
23 presented to the CRC on September 17, 2008 and, as a result of their discussion,  
24 recommended that the Planning Commission consider and recommend approval of the  
25 proposed ordinance to the City Council.  
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27 **PROPOSED ORDINANCE:**  
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29 The proposed amendment to establish a Sidewalk Dining Ordinance per City Council  
30 direction has been provided in Attachment 1. As presented, staff is recommending the  
31 following components be included in the establishment of this Ordinance:  
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- 33 • Establishes definitions in Chapter 17.04 Definitions related to sidewalk dining in  
34 the public right-of-way.  
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- 36 • Applicable to restaurant and retail food establishments in the Commercial Land  
37 Use Zoning Districts – Downtown Commercial and Community Commercial. It  
38 should be noted that at this time, the City will be unable to process and authorize  
39 any sidewalk dining requests along Lincoln Avenue and Foothill Boulevard, since  
40 these streets remain under the jurisdiction of Caltrans. However, Staff will  
41 continue to work with Caltrans to identify a process (in the form of an agreement)  
42 for allowing outdoor dining.  
43
- 44 • Requires the processing of a Conditional Use Permit by the Planning  
45 Commission.  
46
- 47 • Requires an applicant to submit application materials including a proposed  
48 sidewalk dining plan and a description of any potential obstacles such as trees  
49 traffic signs, benches, etc. within a minimum 20' radius of the subject property.  
50 Such materials to also include a description of proposed dining furniture and the  
51 type of eating and drinking utensils to be used.  
52
- 53 • Processing of sidewalk dining requests to be subject to a public notice mailed to  
54 properties within a 300' radius of the subject property in order to solicit public  
55 comment on a proposal.  
56
- 57 • Provides minimum standards and findings for approval.  
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- 59 • Provides provisions for an annual lease for use of rights-of-way.  
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- 61 • Deleted original provisions to require an annual renewal permit for sidewalk  
62 dining. It should be noted that the monitoring of activities will occur through the  
63 City's Code Enforcement Program.  
64
- 65 • Provides indemnification and liability provisions to protect the City.  
66
- 67 • Amends Title 12, Streets, Sidewalks and Public Places, specifically Section  
68 12.08.020 Encroachments of Public Rights-of-Way - Definitions to add sidewalk  
69 dining under "Routine Encroachment", which would be subject to approval of the  
70 Public Works Director. Under current Calistoga Municipal Code provisions, such  
71 requests would be classified as a "Nonroutine Encroachment" and require action  
72 by the City Council. Given this existing requirement, each applicant would be  
73 required to make such requests to the City Council prior to processing a  
74 conditional use permit before the Planning Commission.  
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76 **ENVIRONMENTAL REVIEW:**

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78 This action has been reviewed pursuant to the California Environmental Quality Act  
79 (CEQA) and determined that this activity is covered by the general rule that CEQA  
80 applies only to projects, which have the potential for causing a significant effect on the  
81 environment, and where it can be seen with certainty that there is no possibility that the  
82 action being contemplated, the establishment of regulations for allowing sidewalk dining  
83 in the public right-of-way, will have any impact on the environment (Section  
84 15061(b)(3)).

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86 **RECOMMENDATION:**

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88 Staff recommends that the Planning Commission receive a presentation, solicit public  
89 comments, provide staff direction on any changes to the proposed ordinance, and  
90 continue this item to the Planning Commission Meeting of October 8, 2008.

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92 **SUGGESTED MOTION:**

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94 I move that the Planning Commission continue this item to October 8, 2008.

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96 **ATTACHMENTS:**

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- 98 1. Proposed Sidewalk Ordinance
- 99 2. City Council Report of June 15, 2004
- 100 3. Planning Commission Staff Reports of April 28, 2004 and March 24, 2004
- 101 4. CMC Title 12, Streets, Sidewalks and Public Places, Chapter 12.08
- 102 Encroachments on Public Rights-of-Way
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