

**RESOLUTION NO. 2024-64**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ENCINITAS, CALIFORNIA, ADOPTING AN OUTDOOR DINING RIGHT-OF-WAY USAGE FEE**

**WHEREAS**, On March 4, 2020, the Executive Department of the State of California proclaimed a State of Emergency in California due to COVID-19. An Executive Order was issued providing administrative relief on regulations to support businesses. In response to the Executive Order, the Director of Emergency Services/City Manager declared a local emergency in the City of Encinitas on March 16, 2020. The City Council ratified the emergency proclamation on March 18, 2020; and

**WHEREAS**, On May 6, 2020, the City Council adopted Resolution No. 2020-33 to suspend the restrictions of off-site sale and delivery of alcohol by ABC-licensed restaurants. In addition, the City Council adopted Resolution No. 2020-40 on May 20, 2020, which suspended certain business regulations including waiving parking requirements for expanded outdoor dining, allowing dining within the public right-of-way parking spaces, and allowing alcohol in expanded areas. The City Council also adopted Resolution No. 2020-53 on June 17, 2020, which expanded the footprint of ABC-licensed premises and allowed off-site sale and delivery of alcohol by licensees without kitchen facilities; and

**WHEREAS**, On October 8, 2021, the Governor signed Assembly Bill (AB) 61. AB 61 extends ABC and local agencies' ability to provide regulatory relief as determined necessary by each jurisdiction as it relates to alcohol service and private parking standards; and

**WHEREAS**, On April 27, 2022, the City Council extended temporary outdoor dining to January 1, 2024, consistent with AB 61; and

**WHEREAS**, On October 8, 2023, the Governor signed Assembly Bill (AB) 1217 to extend the provisions of AB 61 until July 1, 2026, or until a local permanent outdoor dining ordinance has been adopted; and

**WHEREAS**, On December 20, 2023, the City Council extended temporary outdoor dining to July 1, 2026, consistent with AB 1217. Additionally, the City Council directed staff to develop a leasing fee for the use of public parking spaces for outdoor dining, and to develop design standards that include safety and aesthetics of protective outdoor dining barriers.

**WHEREAS**, On June 12, 2024, the City Council reviewed an agenda report providing a summary of right-of-way usage fees charged by similar coastal cities.

**NOW, THEREFORE**, the City Council of the City of Encinitas resolves as follows:

**SECTION 1.** That the above recitations are true and correct.

**SECTION 2.** This action is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(3) of the CEQA Guidelines since this action is not a "project" pursuant to Section 15378(b)(5). The action involves an organizational or administrative activity of government that will not result in a direct or indirect physical change in the environment. Environmental review will be conducted in connection with and prior to the adoption of any resulting ordinances.

**SECTION 3.** This Resolution authorizes a right-of-way usage fee for outdoor dining at \$2.50 per square foot per month, and beginning July 1, 2025, and on the first day of each July thereafter, the fee shall be increased by the prior calendar year's Annual Average Consumer Price Index for the San Diego Region so long as the adjustment does not exceed the cost for providing the services and is approved by the City Council.

**SECTION 4:** That the provisions of this Resolution shall take effect on August 1<sup>st</sup>, 2024.

**PASSED, APPROVED AND ADOPTED** this 12<sup>th</sup> day of June 2024 by the City Council of the City of Encinitas, State of California.

DocuSigned by:  
*A.J. Kranz*  
DEA18C6BB88E438  
Tony Kranz, Mayor

ATTEST:

DocuSigned by:  
*Kathy Hollywood*  
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Kathy Hollywood, City Clerk

APPROVED AS TO FORM:

DocuSigned by:  
*Tarquin Preziosi*  
160D99692D9741D...  
Tarquin Preziosi, City Attorney

**CERTIFICATION:**

I, Kathy Hollywood, City Clerk of the City of Encinitas, California, do hereby certify under penalty of perjury that the foregoing Resolution was duly adopted at a regular meeting of the City Council on this 12<sup>th</sup> day of June 2024 by the following vote:

- AYES:           **Blackwell, Ehlers, Kranz, Lyndes**
- NOES:           **None**
- ABSENT:       **Hinze**
- ABSTAIN:      **None**

DocuSigned by:  
*Kathy Hollywood*  
43EC63D34D2448C...  
Kathy Hollywood, City Clerk