

## CALIFORNIA COASTAL COMMISSION

South Coast Area

200 Oceangate, 10TH Floor

P.O. BOX 1450

Long Beach, CA 90802-4325

(562) 590-5071

## RECORD PACKET COPY



February 23, 2000

**TO:** Commissioners and Interested Persons

**FROM:** Deborah Lee, Deputy Director  
Steve Rynas, Orange County Area Supervisor  
Maile Gee, Coastal Program Analyst

**SUBJECT:** Minor Amendment Request No. 2-99 to the City of Huntington Beach Certified Local Coastal Program (For Commission concurrence at the March 14-17, 2000 meeting in Carmel).

Amendment Description

Amendment to the City of Huntington Beach certified Local Coastal Program (LCP) to incorporate into the LCP implementing ordinances (LIP) new wording to allow the consumption of alcohol in conjunction with outdoor dining on public property. The consumption of alcohol in conjunction with outdoor dining is already allowed on private property. The LCP amendment includes wording that requires that outdoor dining areas shall be an extension of the eating establishment and shall be surrounded by a physical barrier 36-inches in height. The proposed revisions are included in City Council Resolution No. 99-104 (Exhibit 1). The LCP amendment does not change the requirement that establishments with outdoor dining located on public right-of-way shall provide a minimum eight (8) foot clear passage for pedestrian access, and a minimum ten (10) foot clear passage for pedestrian access along the first block of Main Street and Pacific Coast Highway within District 3 and on the Municipal Pier.

Any change to the City's zoning regulations constitutes an amendment to the LCP because the City zoning regulations are the implementing ordinances (LIP) of the certified LCP. The proposed LCP amendment affects only the LIP portion of the LCP and does not propose any rezoning or land use changes in the coastal zone. The certified Land Use Plan (LUP) portion of the LCP is not affected by this amendment.

City Council Resolution No. 99-104 submits the LCP amendment request for certification by the Commission (Exhibit 1). The proposed changes to the certified LCP are contained in Ordinance Nos. 3433 and 3434 (Exhibits 2 and 3, respectively). The City Planning Commission held public hearings for the proposed LCP amendment on February 9, 1999, May 11, 1999, May 25, 1999, and June 22, 1999. The Huntington

Beach City Council held public hearings for the LCP amendment request on August 2, 1999, August 16, 1999 and December 6, 1999. Ordinance No. 3434 was adopted on August 16, 1999, and Ordinance No. 3433 was adopted on December 6, 1999.

### Procedures

Pursuant to Section 30514(c) of the Coastal Act and Section 13554(a) of the California Code of Regulations, the Executive Director has determined that the proposed amendment is "minor" in nature. Section 13554(a) of the California Code of Regulations defines a minor LCP amendment as changes in wording which make the use as designated in the zoning ordinances, zoning district maps or other implementing actions more specific and which do not change the kind, location, intensity, or density of use and are consistent with the certified LUP.

The proposed LCP amendment is consistent with the certified LUP, makes the zoning regulations more specific, and does not change the kind, location, intensity, or density of use. Therefore, the Executive Director has determined that City of Huntington Beach LCP Amendment No. 2-99 is a minor LCP amendment.

The proposed LCP amendment will become effective after report to the Commission of any written objections received within ten working days of the mailing of notice unless one-third of the appointed members of the Commission request that the LCP amendment be processed and heard as a "major" LCP amendment pursuant to Section 13555 of the California Code of Regulations.

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DEC 29 1999

**RESOLUTION NO. 99-104**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALIFORNIA  
HUNTINGTON BEACH, CALIFORNIA, COASTAL COMMISSION  
ADOPTING LOCAL COASTAL PROGRAM AMENDMENT NO. 99-4  
AND REQUESTING ITS CERTIFICATION BY THE  
CALIFORNIA COASTAL COMMISSION**

WHEREAS, after notice duly given pursuant to Government Code Section 65090 and Public Resources Code Sections 30503 and 30510, the Planning Commission of the City of Huntington Beach held public hearings to consider the adoption of the Huntington Beach Local Coastal Program Amendment No. 99-4, and such amendment was recommended to the City Council for adoption; and

The City Council, after giving notice as prescribed by law, held at least one public hearing on the proposed Huntington Beach Local Coastal Program Amendment No. 99-4, and the City Council finds that the proposed amendment is consistent with the Certified Huntington Beach Coastal Land Use Plan and Chapter 6 of the California Coastal Act; and

The City Council of the City of Huntington Beach intends to implement the Local Coastal Program in a manner fully consistent with the California Coastal Act,

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby resolve as follows:

SECTION 1. That the Huntington Beach Local Coastal Program Amendment No. 99-4 is hereby approved, consisting of the following Ordinances:

<u>Ordinance</u>	<u>Subject</u>	<u>Description</u>
No. 3433	Zoning Text Amendment No. 98-4	Outdoor Dining in Downtown Huntington Beach
No. 3434	Municipal Code Modifications	Drinking alcohol in Outdoor Dining Areas/ Public Places

Copies of aforesaid ordinances are attached as Exhibits A and B, respectively, and are incorporated by this reference as though fully set forth herein.

SECTION 2. That the California Coastal Commission is hereby requested to consider, approve and certify Huntington Beach Local Coastal Program Amendment No. 99-4.

<b>EXHIBIT 1</b>
Application Number: <b>LCPA HNB 2-99</b>
Resolution <b>No. 99-104</b>
California Coast Commission

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss:  
CITY OF HUNTINGTON BEACH )

I, CONNIE BROCKWAY, the duly elected, qualified City Clerk of the City of Huntington Beach, and ex-officio Clerk of the City Council of said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing resolution was passed and adopted by the affirmative vote of at least a majority of all the members of said City Council at a regular meeting thereof held on the 6th day of December, 1999 by the following vote:

**AYES:** Julien, Sullivan, Harman, Garofalo, Green, Dettloff, Bauer  
**NOES:** Bauer  
**ABSENT:** None  
**ABSTAIN:** None

*Connie Brockway*

City Clerk and ex-officio Clerk of the  
City Council of the City of Huntington  
Beach, California

## AMENDMENT

### DOWNTOWN SPECIFIC PLAN

#### *OUTDOOR DINING W/ALCOHOL*

November 23, 1999

4.2.33 Outdoor dining: Outdoor dining on public or private property may be permitted subject to conditional use permit approval by the Zoning Administrator and compliance with this Section.

(1) Location and design criteria.

Outdoor dining shall conform to the following location and design criteria:

- a. The outdoor dining shall be an extension of an existing or proposed eating establishment on contiguous property.
- b. Outdoor dining located on the sidewalk area of the public right-of-way shall be limited to commercial areas within the Downtown Specific Plan.
- c. Outdoor dining located on the sidewalk area of the public right-of-way of the first block of Main Street and Pacific Coast Highway within District 3 and on the Municipal Pier shall provide a minimum ten (10) foot clear passage area or pedestrian access. Outdoor dining located on the sidewalk area of the public right-of-way and on all other areas shall provide a minimum eight (8) foot clear passage area for pedestrian access. A wider clear passage area may be required at the discretion of the Zoning Administrator.
- d. No outdoor dining shall be allowed in mini-parks, publicly owned plazas, or beach areas excluding concession carts with no seating.
- e. Outdoor dining establishments which do not serve alcohol and are located on public property shall be separated from the clear passage area on the public sidewalk and/or pedestrian walkway by a temporary cordon and removed when not in use.
- f. Establishments which serve alcoholic beverages outdoors are required to provide a physical barrier of 36 inches in height surrounding the outdoor dining area that will prohibit passing of alcohol through the barrier.
- g. All tables, chairs, and umbrellas of outdoor dining located on public property shall be removed when not in use.
- h. Outdoor dining on private sidewalk areas shall provide a minimum eight (8) foot clear passage area for pedestrian access or a permanent cordon shall surround the outdoor dining area and a minimum five (5) foot clear passage area shall be provided.

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss:  
CITY OF HUNTINGTON BEACH )

I, CONNIE BROCKWAY, the duly elected, qualified City Clerk of the City of Huntington Beach, and ex-officio Clerk of the City Council of said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing ordinance was read to said City Council at a regular meeting thereof held on the 2nd day of August, 1999, and was again read to said City Council at a regular meeting thereof held on the 6th day of December, 1999, and was passed and adopted by the affirmative vote of at least a majority of all the members of said City Council.

AYES: Julien, Sullivan, Harman, Garofalo, Green, Dettloff

NOES: Bauer

ABSENT: None

ABSTAIN: None

The foregoing instrument is a correct copy of the original on file in this office.

Attest December 17, 1999

CONNIE BROCKWAY  
City Clerk and Ex-officio Clerk of the City Council of the City of Huntington Beach, California.

By Liz Chung Deputy

I, Connie Brockway CITY CLERK of the City of Huntington Beach and ex-officio Clerk of the City Council, do hereby certify that a synopsis of this ordinance has been published in the Independent on

\_\_\_\_\_, 19 \_\_\_\_

In accordance with the City Charter of said City

Connie Brockway City Clerk

\_\_\_\_\_  
Deputy City Clerk

Connie Brockway  
City Clerk and ex-officio Clerk of the City Council of the City of Huntington Beach, California

ORDINANCE NO. 3433

AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF HUNTINGTON BEACH AMENDING  
THE DOWNTOWN SPECIFIC PLAN BY AMENDING  
SECTION 4.2.33 THEREOF ENTITLED "OUTDOOR DINING"

WHEREAS, the City Council of the City of Huntington Beach has previously adopted the  
Downtown Specific Plan; and

Pursuant to the California State Planning and Zoning Law, the Huntington Beach Planning  
Commission and Huntington Beach City Council have held separate, duly noticed public hearings to  
consider amending Section 4.2.33 of the Downtown Specific Plan, entitled "Outdoor Dining"; and

After due consideration of the findings and recommendations of the Planning Commission and  
all other evidence presented, the City Council finds that the aforesaid amendment is proper and  
consistent with the General Plan,

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby ordain as  
follows:

SECTION 1. That Section 4.2.33 of the Downtown Specific Plan, entitled "Outdoor Dining,"  
is hereby amended to read as set forth in the document attached hereto as Exhibit "A," which document  
is incorporated by this reference as though fully set forth herein.

SECTION 2. This ordinance shall become effective 30 days after its adoption, or upon  
certification of the California Coastal Commission, whichever occurs later.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a  
regular meeting thereof held on the 6th day of December, 1999.

*David Sawyer*  
Mayor

ATTEST:

*Conne Brockway*  
City Clerk

APPROVED AS TO FORM:  
(Amended from first reading on 8/2/99)

*Gail Tutton*  
City Attorney  
11-23-99

REVIEWED AND APPROVED:

*Peggy Salas*  
City Administrator

INITIATED AND APPROVED:

*Frank Telefun*  
Director of Planning

- i. At street intersections, the triangular area formed by measuring 25 feet along the curb lines, shall be clear passage area.
- j. Temporary, mobile or free-standing food service providers are not eligible under these provisions.

(2) Operating requirements, provisions, and conditions.

- a. A License Agreement including use fees shall be obtained from the City for outdoor dining located on public property. The License Agreement shall be subject to termination at any time upon a 10 day prior written notice upon determination of the Zoning Administrator that one or more of the conditions or provisions of this Section 4.2.33 have been violated or that one or more factors listed in Subsection (5) below have changed and the permitted use is no longer compatible with the intended use of the public right-of-way or public property. Termination of a License Agreement shall nullify the conditional use permit.
- b. The applicant shall enter into a Maintenance Agreement with the City for maintenance of all portions of the public property used and approved by the Zoning Administrator for the outdoor dining. Said agreement shall be submitted to and approved by the Department of Public Works prior to commencement of the use.
- c. All outdoor dining operators shall provide a public liability insurance policy as specified in all current insurance resolutions. Such liability insurance shall be provided in a form acceptable to the City Attorney. The policy shall name the City of Huntington Beach as an additional insured and shall be maintained at all times.
- d. No food or beverages of any nature shall be sold to any occupant or rider of any motor vehicle or bicycle.
- e. Alcoholic beverages shall be served in glass containers only. Each glass container shall be permanently printed with a number identifying the establishment serving alcohol.
- f. The applicant (or operator) shall pay all fees and deposits required by the Huntington Beach Municipal Code, including the fee established for use of public property, prior to operation of the outdoor dining use.
- g. All provisions of the Huntington Beach Municipal Code and Zoning and Subdivision Ordinance shall apply.
- h. Alcoholic beverages may be served on public and/or private property subject to the provisions provided herein.
- i. The conditional use permit may be transferred upon sale or transfer of the restaurant subject to a written request approved by the Zoning Administrator and the property owner. An amendment to the License Agreement will be required prior to transfer of the



STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS:  
CITY OF HUNTINGTON BEACH )

I, CONNIE BROCKWAY, the duly elected, qualified City Clerk of the City of Huntington Beach, and ex-officio Clerk of the City Council of said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing ordinance was read to said City Council at a regular meeting thereof held on the 2nd day of August, 1999, and was again read to said City Council at a regular meeting thereof held on the 6th day of December, 1999, and was passed and adopted by the affirmative vote of at least a majority of all the members of said City Council.

AYES: Julien, Sullivan, Harman, Garofalo, Green, Dettloff

NOES: Bauer

ABSENT: None

ABSTAIN: None

The foregoing instrument is a correct copy of the original on file in this office.

Attest December 16 19 99

CONNIE BROCKWAY  
City Clerk and Ex-officio Clerk of the City Council of the City of Huntington Beach, California.

By Liz Fering Deputy

I, Connie Brockway CITY CLERK of the City of Huntington Beach and ex-officio Clerk of the City Council, do hereby certify that a synopsis of this ordinance has been published in the Independent on \_\_\_\_\_, 19 \_\_\_\_ In accordance with the City Charter of said City  
Connie Brockway City Clerk  
\_\_\_\_\_  
Deputy City Clerk

Connie Brockway  
City Clerk and ex-officio Clerk of the City Council of the City of Huntington Beach, California

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ORDINANCE NO. 3434

A ORDINANCE OF THE CITY OF HUNTINGTON BEACH  
AMENDING THE HUNTINGTON BEACH MUNICIPAL CODE  
BY AMENDING SECTION 9.44.010 THEREOF  
RELATING TO DRINKING ALCOHOL IN PUBLIC PLACES

DEC 29 1999

CALIFORNIA  
COASTAL COMMISSION

The City Council of the City of Huntington Beach does hereby ordain as follows:

1. That the Huntington Beach Municipal Code is hereby amended by amending Section 9.44.010 thereof, entitled "General: Drinking in public places," to read as follows:

9.44.010 General: Drinking in public places. No person shall drink any malt, spirituous or vinous liquor containing more than one-half of 1 percent of alcohol by volume, upon any public streets, alleys, sidewalks, parkways, playgrounds, parking lots open to the public, public parks, public school grounds, and public recreation areas within this city, unless such person is on any place for which a conditional use permit or special permit has been issued by the City of Huntington Beach permitting alcohol consumption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 16th day of August, 1999

Mayor

ATTEST:

Connie Brockway  
City Clerk

APPROVED AS TO FORM:

Eric Hutton  
City Attorney  
*JEH 2-23-99* *for 2/23/99*

REVIEWED AND APPROVED:

Ray Silvers  
City Administrator

INITIATED AND APPROVED:

Howard Zuley  
Director of Planning

The foregoing instrument is a correct  
copy of the original on file in this office.

Attest Sept. 29 1999

CONNIE BRULKWAY

City Clerk and Ex-officio Clerk of the City  
Council of the City of Huntington Beach,  
California.

By Carol Gibbons Deputy

LCPA HNB 2-99  
EXhibit 3  
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