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# Th11a

**Prepared July 21, 2023 for August 10, 2023 Hearing**

**To:** Commissioners and Interested Persons

**From:** Kevin Kahn, Central Coast District Manager  
Kiana Ford, Coastal Planner

**Subject: De Minimis Amendment Determination for Proposed City of Capitola  
Local Coastal Program Amendment Number LCP-3-CAP-23-0026-1  
(Public Parking Rates and Zones)**

## **Proposed LCP Amendment**

The City of Capitola is proposing to modify the Local Coastal Program (LCP) Implementation Plan (IP)'s provisions related to paid public parking. The proposed amendment would change the way in which public parking fees and zones are established in the City. Whereas the existing LCP explicitly lists the allowed parking rates in various parts of the City (and thus any changes to these defined parking fees and locations would require an LCP amendment), the proposed amendment would remove these explicit rates with policy language that establishes the review criteria by which the City would authorize parking fee changes as part of CDP review. In other words, the City proposes to replace the LCP's specific listing of parking fees instead with evaluation criteria and required findings for approval of any proposed changes, including that any changes to parking fees and locations will not have a detrimental impact on public coastal access. See **Exhibit 1** for proposed amendment text.

## **De Minimis LCP Amendment Determination**

Pursuant to Coastal Act Section 30514(d), the Executive Director may determine that a proposed LCP amendment is "de minimis" if the amendment meets the following three criteria:

1. The proposed amendment would have no impact, either individually or cumulatively, on coastal resources, and it is consistent with Coastal Act Chapter 3.
2. The proposed amendment does not propose any change in use of land or water or allowable use of property.

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3. The proposed amendment was properly noticed by the local government at least 21 days prior to submittal<sup>1</sup> to the Commission (i.e., by posting notice on-site and off-site in the affected area, publishing notice in the local newspaper, and/or mailing notice to owners and occupants of affected and contiguous properties).

If the Executive Director determines that an amendment is de minimis, that determination must be reported to the Commission. If three or more Commissioners object to the Executive Director's de minimis LCP amendment determination at that time, then the amendment is set for a future public hearing as a regular LCP amendment. If not, then the amendment is deemed approved and it becomes a certified part of the LCP ten days after the date it is reported to the Commission (in this case, it would be certified on August 20, 2023).

**The purpose of this notice is to advise interested parties of the Executive Director's determination that the proposed LCP amendment is de minimis.**

### **De Minimis LCP Amendment Analysis**

Each of the de minimis criteria is discussed briefly below.

#### **1. No impact to coastal resources and consistency with Coastal Act Chapter 3**

Parking fees in coastal areas can have a detrimental impact on public access, depending on the amount of the increase, availability of lower-cost parking options nearby, and availability of alternative transportation methods (e.g., shuttles, buses, etc.) that provide access to the beach. Other parking changes (such as changes to hours of operations, time limits for length of stay, etc.) can similarly negatively impact public coastal access. As such, the Commission has carefully considered public parking provisions in Capitola, including parking rates and the effect of such rates on coastal visitors, particularly coastal visitors for which parking fees can severely limit their ability to access and enjoy the coast.

Currently, parking meter rates and zones are explicitly identified in the Capitola LCP, and the City is required to process an LCP amendment whenever it seeks to change or modify them. The Commission adopted this LCP framework for parking meter rates and zones in July 2009<sup>2</sup>. Since then, the City has indicated a desire to replace this rather rigid listing of parking fees (which would necessitate an LCP amendment for each and every parking change) with policy language that establishes the criteria that the City would use to evaluate fee changes as part of CDP review. Commission staff has been amenable to this approach,<sup>3</sup> which is more apt of a policy document like an LCP that

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<sup>1</sup> An LCP amendment is deemed to have been "submitted" when it has been determined that it includes all of the necessary supporting documentation and information required by the Coastal Act and the Commission's implementing regulations, and is 'filed' by Commission staff as complete.

<sup>2</sup> LCP amendment number CAP-MAJ-1-09.

<sup>3</sup> The Commission previously approved a similar LCP amendment (CAP-1-13) to remove parking standards from the Capitola LCP in 2013. However, the City ultimately never accepted the LCP amendment's modifications.

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establishes the applicable standards that new development, such as parking fees, must meet.

In this case, the City is proposing to replace the explicit fees with policy language that lays out the findings and performance standards required when evaluating a CDP for parking changes. Specifically, the amendment requires the City to evaluate the potential impacts the proposed parking changes would have on public coastal access, and ensure existing levels of public access are maintained, including through alternative access opportunities such as bike lanes, pedestrian trails, and relocated free vehicular parking, all with a goal of fully mitigating any potential adverse access impact. Additionally, under the proposed amendment, any revenue from fee-based parking programs located within the coastal zone must be used to enhance coastal resources, including to fund public coastal access improvements, protect public safety, and/or provide public services in the coastal zone. In short, the amendment reflects good public policy in terms of parking evaluation, including language used in other recent LCPs on this issue<sup>4</sup>, and should both help ensure that parking fees and access are equitably implemented, as well as ensuring a revenue stream for coastal resource enhancements. Finally, most of the City's prime parking areas are located within the Coastal Commission's appeal jurisdiction (e.g., between the sea and first public road). Thus, any CDP approved by the City that includes changes to parking rates or other parking standards in this area could be appealed to the Commission, thereby providing for closer scrutiny by the Commission if warranted. In sum, the proposed amendment will not adversely affect coastal resources; it is consistent with Coastal Act Chapter 3; and it meets the first de minimis LCP amendment criterion.

### **2. No change in use of land or allowable use of property**

As discussed, the proposed LCP amendment modifies the way in which the LCP regulates public parking fees, but does not change any LCP-allowed uses of land or LCP-allowed uses of property. It therefore meets the second de minimis LCP amendment criterion.

### **3. Provision of public notice**

The City provided public notice via newspaper<sup>5</sup> and regular mail<sup>6</sup> in advance of the City Council hearing (first reading held on June 8, 2023 and second reading held on June 22, 2023), and the Council approved the amendment on June 22, 2023. In addition, as part of both hearing processes, the proposed amendment text was made available to the City Council's mailing list prior to its consideration in a hearing, and the text was also available for public inspection at the City Planning Department and on the City's website in advance of the hearings. The proposed amendment was subsequently received by the Commission on June 29, 2023, and filed as complete on July 12, 2023, roughly one month after it was last noticed locally. Therefore, the 21-day noticing

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<sup>4</sup> Including the cities of Pacific Grove and Morro Bay.

<sup>5</sup> The proposed amendment was noticed via a newspaper notice on May 26, 2023, prior to the City Council hearing.

<sup>6</sup> Hard copy notices were mailed to interested parties and relevant agencies.

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requirement has been satisfied, and the proposed amendment meets the third and final de minimis LCP amendment criterion.

### **California Environmental Quality Act (CEQA)**

CEQA Section 21080.5(d)(2)(A) prohibits a proposed LCP or LCP amendment from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the LCP or LCP amendment may have on the environment. Although local governments are not required to satisfy CEQA in terms of local preparation and adoption of LCPs and LCP amendments, many local governments use the CEQA process to develop information about proposed LCPs and LCP amendments, including to help facilitate Coastal Act review. In this case, the City exempted the proposed amendment from environmental review (citing CEQA Section 15321(a), which exempts actions by a regulatory agency to enforce a permit).

The Coastal Commission is not exempt from satisfying CEQA requirements with respect to LCPs and LCP amendments, but the Commission's LCP/LCP amendment review, approval, and certification process has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(f)). Accordingly, in fulfilling that review, this report has discussed the relevant coastal resource issues with the proposal, and has concluded that approval of the proposed amendment is not expected to result in any significant environmental effects, including as those terms are understood in CEQA. Accordingly, it is unnecessary for the Commission to suggest modifications (including through alternatives and/or mitigation measures) as there are no significant adverse environmental effects that approval of the proposed amendment would necessitate. Thus, the proposed amendment will not result in any significant adverse environmental effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A).

### **Coastal Commission Concurrence**

The Executive Director will report this de minimis LCP amendment determination, and any comments received on it, to the Coastal Commission at its August 10, 2023 meeting in Oxnard. If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact Kiana Ford at the Coastal Commission's Central Coast District Office by email at [kiana.ford@coastal.ca.gov](mailto:kiana.ford@coastal.ca.gov). If you wish to comment on the proposed amendment and/or object to the proposed de minimis LCP amendment determination, please do so via regular mail (directed to the Central Coast District Office) or email (by emailing [centralcoast@coastal.ca.gov](mailto:centralcoast@coastal.ca.gov)) by 5:00 p.m. on August 4, 2023.

### **Procedural Note - LCP Amendment Action Deadline**

This proposed LCP amendment was filed as complete on July 12, 2023. The proposed amendment affects the LCP's IP only, and the 60-working-day deadline for the Commission to take action on it is October 5, 2023. Thus, unless the Commission extends the action deadline (it may be extended by up to one year by the Commission

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per the Coastal Act), the Commission has until October 5, 2023 to take a final action on this LCP amendment.

Therefore, if three or more Commissioners object to the Executive Director's determination that this amendment is de minimis, then staff recommends that the Commission vote to extend the deadline for final Commission action on the proposed amendment by one year. To do so, staff recommends a YES vote on the motion below. Passage of the motion will result in a new deadline for final Commission action on the proposed LCP amendment. The motion passes only by an affirmative vote of a majority of the Commissioners present.

*Motion: I move that the Commission extend the time limit to act on City of Capitola Local Coastal Program Amendment Number LCP-3-CAP-23-0026-1 to October 5, 2024, and I recommend a yes vote.*

### **Exhibits**

Exhibit 1: Proposed LCP Amendment text