

Department of Public Works

Bureau of Engineering
Bureau of Street Services
Joint Report No. 1

October 20, 2021
CD Nos. All

ADOPTED BY THE BOARD
PUBLIC WORKS OF THE CITY
of Los Angeles California

OCT 20 2021


Executive Officer
Board of Public Works

REVISED POLICY ON SIDEWALK DINING

RECOMMENDING THE BOARD OF PUBLIC WORKS (BOARD):

Approve the proposed "Board of Public Works Policy on Sidewalk Dining" (Transmittal No. 1), to replace the current policy which was approved by the Board on April 3, 2019 (Transmittal No. 2).

TRANSMITTALS

1. The proposed Board Policy on Sidewalk Dining.
2. Copy of Bureau of Engineering (BOE) and Bureau of Street Services (StreetsLA) Joint Report No. 1, adopted on April 3, 2019.
3. Transportation Committee Report and Amending Motion (Council File No. 20-1074), adopted forthwith on November 4, 2020.
4. Report of the Chief Legislative Analyst (CLA), dated March 11, 2021, (Council File No. 20-1074).
5. Joint Report from the BOE and Los Angeles Department of Transportation (LADOT) to the Transportation Committee (Council File No. 20-1074) dated September 29, 2021
6. Report from the Economic Development Committee (Council File No. 20-0499), adopted forthwith on January 12, 2021.
7. Report from the BOE, dated June 16, 2021.

DISCUSSION

Background

A Revocable Permit (R-Permit) is required for encroachments within the public right-of-way per the Los Angeles Municipal Code (LAMC) Section 62.118.2 which states:

Where the City Engineer finds that a building, structure or improvement maintained or proposed to be constructed within a public street will not interfere with the

maintenance or use of the street, and is not intended for use by the public, the Bureau of Engineering may issue one or more permits for the maintenance or proposed construction of such building, structure or improvement, or for an excavation in connection with such maintenance or construction.

Specific permits do not exist for sidewalk dining. Consequently, the R-Permit is the process that is currently used to authorize sidewalk dining encroachments.

On April 3, 2019, the Board established the “Board of Public Works Policy on Sidewalk Dining”.

In response to the COVID-19 pandemic, on May 29, 2020, the City of Los Angeles (City) launched the first phase of the LA AI Fresco Program to support outdoor dining opportunities for restaurants in coordination with the Los Angeles County Department of Public Health allowing dine-in service at restaurants. Through LA AI Fresco, the City offered streamlined and immediate temporary approval for eligible businesses to provide outdoor seating in areas including sidewalks and private parking lots. Phase 2 of LA AI Fresco was launched on June 26, 2020, expanding options to include street parking spaces, lane closures, and street closures, for dine-in service at restaurants.

On November 4, 2020, the City Council adopted a motion under Council File No. 20-1074, directing the CLA, the LADOT, and the BOE, with the assistance of StreetsLA, the Departments of Building and Safety and City Planning, the Los Angeles Fire Department, and the City Attorney, to report relative to the feasibility of developing a permanent LA AI Fresco Program that would allow for a streamlined outdoor dining permit process, including but not limited to a potential program structure, eligibility criteria, safety and infrastructure requirements, and a plan that would enable interested businesses to opt-in to the permit program (Transmittal No. 3).

On March 11, 2021, the CLA reported to the City Council under Council File No. 20-1074, with the following recommendations (Transmittal No. 4).

- 1. Request the City Attorney to report on the feasibility of revising the LADOT People St. Program to allow restaurants exclusive use of the public right-of-way.*
- 2. Instruct the BOE, working with the LADOT, to report with recommendations to revise the Sidewalk Dining Program and the People St. Program, as appropriate, to expeditiously transition all existing LA AI Fresco Pilot Program participants that are operating in the public right-of-way into permanent sidewalk dining locations, including the identification of specific locations that can quickly be made permanent with minimal effort.*

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3. *Instruct the Departments of Building and Safety, City Planning and the Los Angeles Fire Department to report with recommendations to develop a new category under the Restaurant and Small Business Express Program (RSBEP), or another appropriate regulatory framework, for outdoor dining on private property that is operating under the LA Al Fresco Pilot Program, including any changes to State, County, and City Codes needed to effectuate this program, including the identification of specific locations that can quickly be made permanent with minimal changes.*

The CLA report was adopted by the City Council on May 12, 2021. The report back on item 2 related to sidewalk dining was submitted to the Council File Management System on September 29, 2021 (Transmittal No. 5). It has been referred to the Transportation Committee and is pending being agendaized for a future meeting. With regard to sidewalk dining, the report recommends that the R-Permit process continue to be utilized for sidewalk dining approvals. The report also states that the BOE is analyzing the current Sidewalk Dining Policy to identify potential ways that it might be streamlined, and that recommended changes would be presented to the Board for consideration.

On January 12, 2021, the City Council under Council File No. 20-0499 adopted a different motion related to LA Al Fresco and the transition of temporary authorities to regular approvals (Transmittal No. 6). The City Council action included the following instruction, among others:

1. INSTRUCT the BOE to evaluate and report on the following possible changes in operations generated from the Food and Beverage Working Group discussions:
 - a. Coordinate with other City departments, as appropriate, and report to Mayor and Council with options available to streamline the process of permitting sidewalk dining, including the potential for the City to adopt the streamlined Al Fresco permit process model, including implementing a fee for program cost recovery.

The BOE provided a report back on that Council File on June 16, 2021 (Transmittal No. 7). Similar to the report under Council File No. 20-1074, the report recommended that the R-Permit process continue to be utilized for sidewalk dining approvals. The report also stated that the BOE is analyzing the current Sidewalk Dining Policy to identify potential ways that it might be streamlined, and that recommended changes would be presented to

the Board for consideration. The official recommendation of the report was to receive and file the report because no Council actions were required for the recommended course of action. Public Works Committee officially noted and filed the report on June 23, 2021.

Recommendation

The BOE and StreetsLA have analyzed the current sidewalk dining policy to look for ways that the process could be streamlined while preserving public safety and access. The requirements of the current LA Al Fresco Program were also analyzed to look at changes that could increase consistency with the requirements of that program. The recommended changes to the current Board Policy on Sidewalk Dining would help streamline the sidewalk dining application process and increase the consistency with the current LA Al Fresco Program:

Sidewalk Dining Policy

The revised Sidewalk Dining Policy that is submitted for consideration with this report was the result of a thorough and careful review of each of the components of the Sidewalk Dining Policy looking to see where there might be opportunities to make it easier for applicants to implement without significant impacts to public safety or other uses of the sidewalk. The following are the key modifications proposed in the revised Sidewalk Dining Policy as compared to the current Sidewalk Dining Policy.

- Added the ability to front neighboring properties with property owner permission
- Added a clarification of the Pedestrian Access Route (PAR)
- Modified the sidewalk condition requirements
- Reduced the base application fee for most applications by eliminating field investigations when not required
- Added noise restrictions
- Added the ability of Business Improvement Districts and other approved third parties to satisfy some permitting requirements

The implementation of the above changes to the current Board Policy on Sidewalk Dining should ease the transition of existing LA Al Fresco Program participants to the R-Permits.

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(WT RMK TA DR AB GH)

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BOE (ADM)

Report prepared by:

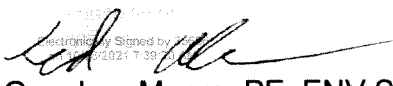
Central District

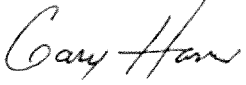
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WT/TS/09-2021-0141.CEN.gva

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Respectfully submitted,


for Gary Lee Moore, PE, ENV SP
City Engineer
Bureau of Engineering

 for

Keith Mozee
Director
Bureau of Street Services

Sidewalk Dining Policy

The following are the policy requirements for R-permits authorizing sidewalk dining within the City of Los Angeles.

1. Allowable Location of Sidewalk Dining Area

Sidewalk dining may be allowed by the City Engineer in any portion of the sidewalk area fronting a property provided that an acceptable Pedestrian Access Route (PAR) is provided along the frontage of the portion of the property proposed to contain sidewalk dining, and when applicable, connecting to the property entrance. Sidewalk dining may be allowed in an area fronting adjoining properties if written consent is obtained from adjoining property owners.

2. Minimum Clearance

The minimum required clear space between encroachments (tables and chairs) and fixed street amenities such as poles, parking meters, tree wells, street lights, and signs shall be 4 feet, provided that 5-foot by 5-foot passing areas are provided at 200-foot intervals. The applicant must identify the PAR which shall be clear of obstructions including but not limited to queue lines and restaurant workers. Any violation may result in revocation of the R-Permit.

Exemptions to the 4-foot minimum PAR width around isolated barriers, such as tree wells, not more than once per every 20 feet, may be granted by the City Engineer.

3. Railings

Fixed railings or barriers (42-inch maximum in height) shall be required if the clear space between the sidewalk dining area to the curb or other fixed amenities is less than 5 feet. If the clear space is 5 feet or more, rails or barriers are not required. Non-fixed rails may be allowed when the clearance is 5 feet or more, subject to the Bureau of Engineering (BOE) approval.

4. Sidewalk Condition

The PAR fronting proposed dining area will be evaluated by the applicant based on the criteria listed below.

- Vertical Displacement (uplift) – Shall not exceed 1/2 inch.
- Horizontal Displacement (cracks/gaps) – Shall not exceed 1 inch.

If the condition of the PAR fronting proposed outside dining area does not meet the above-listed conditions, it will be required to be remediated or repaired to meet the above criteria or be removed and replaced to be Americans with Disabilities Act (ADA) compliant. The area of the sidewalk assessment shall include all the frontage of the proposed sidewalk dining area plus a 10-foot minimum transition on each end satisfactory to the City Engineer. The 10-foot transition area may be

reduced to the minimum practical length determined by the City Engineer in cases where it would cross to a neighboring property.

5. Sidewalk Dining Area

The BOE shall approve the space available for use for sidewalk dining based on the conditions outlined in this report. There is no set limit to the number of sidewalk dining seats that the BOE may approve.

6. Sewerage Facilities Charge (SFC)

SFC fees shall be required for all additional outdoor seating based on the number of seats allowed.

7. Sidewalk Dining Permit Processing Fee

The processing fee for a Sidewalk Dining Permit is as follows:

- Tier 1 R-Permit Fee for permits that do not require field investigations. All Sidewalk Dining Permit applications shall be subject to a Tier I fee unless it is determined by BOE staff that a field investigation is needed.
- Tier 2 R-Permit Fee for permits that require field investigations, as determined by the BOE.
- Tier 3 R-Permit Fee for the cases where Board approval is required to deviate from the sidewalk policy or there is a request to appeal a BOE decision to the Board.

8. Display Permit

The display permit shall be posted in plain view from the outside of the restaurant. Citations and penalty fees may be assessed for non-compliance.

9. Maintenance

The sidewalk and dining area shall be maintained in a clean and uncluttered manner at all times. All food or drink spills, and trash of any kind, must be immediately removed from the sidewalk area. Private dining trash must be collected and deposited in private trash receptacles, not placed in public trash receptacles.

10. Waiver of Damages

A Waiver of Damages shall be signed by an entity with signatory authority on behalf of the property owner, lessee or an applicant assistant authorized by the BOE; notarized by a notary public; submitted to the BOE for review; and if signed on behalf of the property owner it shall be recorded with the Los Angeles County Recorder's Office.

11. Liability Insurance

Proof of liability insurance shall be renewed annually with the Risk Management Group of the City Administrative Officer.

12. R-Permit Requirements (RPR) and Expiration

The BOE will prepare the RPR, which is list of conditions that must be met prior to issuance of the R-Permit for sidewalk dining along with a deadline to meet the listed conditions. The deadline is generally one year from the release of RPR by the City Engineer, but it may be shorter or longer as determined to be appropriate by the City Engineer. Should the applicant fail to meet the condition by the specified deadline, the application will expire unless an extension is granted.

A new R-Permit application and fee will be required in such cases where the application expires and/or where the applicant desires to change the scope of work to the extent that it requires an additional investigation and review. In cases where the scope change is minor compared to the original scope, the City Engineer may charge a Tier 1 R-Permit Fee for subsequent applications.

13. Appeals

Appeals of a BOE determination may be made only by the permit applicant, and must be submitted in writing to the Board of Public Works Executive Officer within thirty days of the BOE determination. Appeals shall be heard by the Board.

14. Change of Permit Ownership

A change in property or restaurant ownership shall require a new Sidewalk Dining Permit in cases where the prior owner, or their authorized signatory, was the permittee for sidewalk dining.

- A Tier 1 R-Permit Fee shall be required if no changes are proposed to the layout of the existing dining area. A new Waiver of Damages and Proof of Liability Insurance will be required to be signed and notarized.
- Refer to paragraph 7 for fee schedule if changes are proposed to the layout of the existing dining area.

15. Non-Compliance

The StreetsLA Investigation and Enforcement Division, will be notified to investigate any complaints. Citations may be issued for non-compliance. Permit violations may result in revocation of the permit.

16. Encroachments Not Authorized by the Permit

Encroachments that are not specifically authorized under the R-Permit, such as heaters, fans, drop down enclosures, signs, planters, music equipment and valet podiums, shall not be allowed in the dining area.

17. Alcohol

Serving alcohol requires a Conditional Use Permit from the Department of City Planning and a permit from the California Department of Alcohol Beverage Control. Because alcohol falls under the jurisdiction of those entities and not the

Board, Sidewalk Dining Permits will allow for serving or possessing alcohol within the sidewalk dining area provided proper permits and approvals are obtained for such use from the appropriate agencies.

18. Revocation Process

A Sidewalk Dining Permit may be revoked at any time. If revoked, the permittee shall remove all encroachments at no cost to the City and restore the public right-of-way to the satisfaction of the City Engineer.

19. Smoking

Smoking is not allowed within 10 feet of the sidewalk dining area, per the LAMC Sections 41.50.A.5.a and 41.50.B.2.c.

20. Noise Restriction

All sidewalk dining areas shall operate no later than 10:30 p.m. if adjacent to any residential areas (this includes mixed-use).

21. Technical Review

The BOE will conduct a technical review of the proposed encroachments to ensure that the designs are safe, that the materials are suitable for the public right-of-way; and that the encroachments will not damage or restrict access to existing sidewalks, street trees or other infrastructure. As a part of the technical review, the BOE will also review the cumulative impact to the general area to ensure that adequate space remains for the other sidewalk functions that exist at the site. The BOE may establish more detailed rules regarding sidewalk dining within the framework of the Board Sidewalk Dining Policy. The complete rules for the program shall be made available in the online BOE Permit Manual which may be found at <https://engpermitmanual.lacity.org/>.

22. Compliance with Other Regulations

In addition to the Board Policy on Sidewalk Dining, permittees must comply with all other applicable regulations including, but not limited to, state and county health regulations.

23. Applicant Assistance

Business Improvement Districts may assist with completing some of the requirements of this policy such as the preparation of the application and the signing of the Waiver of Damages. The City Engineer may use their discretion to allow other entities that want to assist that are not the owner or lessee.

Revision to + replace
"Policy #658 + 663" BPW-2019-0254
New Policy #795

Department of Public Works


Bureau of Engineering
Bureau of Street Services
Joint Report No. 1

April 3, 2019
CD No. All

ADOPTED BY THE BOARD
PUBLIC WORKS OF THE CITY
of Los Angeles California

APR 03 2019

REVISED POLICY ON SIDEWALK DINING


Executive Officer
Board of Public Works

RECOMMENDATION

Approve the proposed revisions made to the current "Bureau of Engineering's (BOE) Policy on Sidewalk Dining within the Public Right-of-Way," which was approved by the Board of Public Works (Board) on April 10, 2006 (Transmittal No. 1), and establish the revised requirements as the "Board of Public Works Policy on Sidewalk Dining."

TRANSMITTALS

1. The BOE current policy on Sidewalk Dining adopted by the Board on April 10, 2006.
2. A copy of the display permit.

Background

The current BOE sidewalk dining policy was presented to, and approved by, the Board but was titled the "Bureau of Engineering's Policy on Sidewalk Dining within the Public Right-of-Way." Because it has been the practice to have the policy adopted by the Board, this report recommends titling the policy as the "Board of Public Works Policy on Sidewalk Dining."

The current sidewalk dining policy does not address whether, and to what extent, sidewalks should be required to be Americans Disabilities Act (ADA) compliant. This report proposes revisions to the current sidewalk dining policy to address and incorporate ADA requirements.

Additionally, the Historic Core Pilot Program for Sidewalk Dining was authorized on November 8, 2013, under Council File No. 13-0658 as a two-year temporary program which has since expired. The pilot program has been successful and therefore this report recommends incorporating the elimination of notification requirements to neighbors into the standard policy and having one single citywide policy. The one item not recommended to be incorporated into the standard policy from the pilot program is the elimination of a site visit and the charge of a Tier 1 Revocable Permit Fee instead of a Tier 2 Revocable Permit Fee. The policy recommends requiring a Tier 2 Revocable Permit due to the need to assess the ADA condition of the sidewalk.

TRANSMITTAL NO. 2

Lastly, this report also addresses a past instruction from City Council in Council File No. 13-0658 that includes recommendation number three as follows:

Instruct the Bureau of Engineering (BOE) to review its current policy on sidewalk dining within the public right-of-way in requiring the maintenance of a seven-foot space between encroachments (tables and chairs) and existing obstructions such as power poles, street lights, parking meters and tree wells for feasibility of changing the space requirement to a smaller space requirement.

DISCUSSION

The sidewalk policy recommendations in this report propose the following changes to the current BOE Sidewalk Dining Policy:

- Elimination of separate Historic Core Pilot Program and consolidation to one citywide sidewalk dining policy.
- Incorporation of Historic Core Pilot Program waiver of neighbor notification requirements.
- Reduction of the minimum allowed width of the Pedestrian Access Route (PAR) from seven to four feet.
- Requirement for fixed railings when a PAR of less than five feet is provided.
- Elimination of bi-annual \$300 inspection fee.
- Addition of new requirement that sidewalks in the sidewalk dining area and 10 feet beyond meet ADA requirements, with an exception allowed for cross slope only.

Sidewalk Dining Policy

The following are the policy requirements for revocable permits authorizing sidewalk dining within the City of Los Angeles (City).

1. Allowable Location of Sidewalk Dining Area

Sidewalk dining may be allowed by the City Engineer in any portion of the sidewalk area fronting a property provided that an acceptable PAR is provided along the frontage of the portion of the property proposed to contain sidewalk dining, and when applicable, connecting to the property entrance.

2. Minimum Clearance

The minimum required clear space between encroachments (tables and chairs) and fixed street amenities such as poles, parking meters, tree wells, street lights

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and signs shall be four feet, provided that ADA compliant passing areas are provided at 200 foot intervals.

3. Railings

Fixed railings or barriers (42-inch maximum in height) shall be required if the clear space between the sidewalk dining area to the curb or other fixed amenities is less than five feet. If the clear space is five feet or more, rails or barriers are not required. Non-fixed rails may be allowed when the clearance is five feet or more, subject to BOE approval.

4. ADA Compliant Sidewalks

The Sidewalk area fronting proposed dining area will be evaluated by BOE staff based on the three ADA requirements listed below.

- Vertical Displacement (uplift) - Need not to exceed ¼ inch.
- Sidewalk Cross-slope - Need not to exceed a 2 percent slope.
- Horizontal Displacement (cracks and crumbling) - Need not to exceed a ¼ inch gap.

If the condition of the sidewalk fronting proposed outside dining area does not meet all above-listed conditions, it will be required to be repaired or removed and replaced to be ADA compliant. However, if the only deficiency is the cross slope of up to 4 percent the sidewalk will not be required to be repaired. The area of the sidewalk assessment shall include all the frontage of the proposed outside dining area plus a 10-foot minimum transition on each end satisfactory to the City Engineer. The 10-foot transition area may be reduced to the minimum practical length determined by the City Engineer in cases where it would cross to a neighboring property.

5. Sidewalk Dining Area

The allowable number of seats shall be determined by the available dining area. The available dining area shall comply with the Los Angeles Municipal Code Section 12.03 (Outdoor Eating Area), as applied to private property by the Department of Building and Safety, which is an area no larger than 50 percent of the dining area of the ground floor restaurant.

6. Sewerage Facilities Charge (SFC)

SFC fees shall be required for all additional outdoor seating based on the number of seats allowed.

7. Sidewalk Dining Permit Processing Fee

The processing fee for a Sidewalk Dining Permit is as follows:

- Tier 2 Revocable Permit Fee.
- Tier 3 Revocable Permit Fee for the cases where Board approval is required to deviate from the sidewalk policy or there is a request to appeal a BOE decision to the Board.

8. Display Permit

The display permit (Transmittal No. 2) shall be posted in plain view from the outside of the restaurant. Citations and penalty fees may be assessed for non-compliance.

9. Maintenance

The sidewalk and dining area shall be maintained in a clean and uncluttered manner at all times.

10. Waiver of Damages

A Waiver of Damages shall be signed and notarized by the restaurant owner or managing partner.

11. Liability Insurance

Proof of liability insurance shall be renewed annually with the Risk Management Group of the City Administrative Officer.

12. Revocable Permit Requirements (RPR) Letter and Expiration

The BOE will prepare a RPR letter, which is a list of conditions that must be met prior to issuance of the revocable permit for sidewalk dining along with a deadline to meet the listed conditions. The deadline is generally one year from the date of the RPR letter, but may be shorter or longer as determined to be appropriate by the City Engineer. Should the applicant fail to meet the condition by the specified deadline, the application will expire.

A new revocable permit application and fee will be required in such cases where the application expires and/or where the applicant desires to change the scope of work to the extent that it requires an additional investigation and RPR letter. In

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cases where the scope change is minor compared to the original scope, the City Engineer may charge a Tier 1 Revocable Permit fee for subsequent applications.

13. Appeals

Appeals of all BOE determinations shall be heard by the Board.

14. Change of Permit Ownership

A change in ownership shall require a new sidewalk dining permit.

- A Tier 1 Revocable Permit Fee shall be required if no changes are proposed to the layout of the existing dining area. A new Waiver of Damages and Proof of Liability Insurance will be required to be signed and notarized.
- Refer to paragraph 7 for fee schedule if changes are proposed to the layout of the existing dining area

15. Non-Compliance

The Bureau of Street Services Investigation and Enforcement Division will be notified to investigate any complaints. Citations may be issued for non-compliance.

16. Other Encroachments

Encroachments that are not specifically authorized under the revocable permit, such as heaters, fans, drop down enclosures, signs and valet podiums, shall not be allowed in the dining area.

17. Alcohol

Serving alcohol requires a Conditional Use Permit from the Department of City Planning and a permit from the California Department of Alcohol Beverage Control. Because alcohol falls under the jurisdiction of those entities and not the Board, sidewalk dining permits will allow for serving or possessing alcohol within the sidewalk dining area provided proper permits and approvals are obtained for such use from the appropriate agencies.

18. Revocation Process

A sidewalk dining permit may be revoked at any time. If revoked, the permittee shall remove all encroachments at no cost to the City and restore the public right-of-way to the satisfaction of the City Engineer.

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(RS TA RMK GH GS)

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BOE (ADM)

Report prepared by:

Central District

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report may be referred to:
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Respectfully submitted,



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City Engineer
Bureau of Engineering



Adel H. Hagekhalil, PE
Director
Bureau of Street Services

Department of Public Works

Bureau of Engineering
Bureau of Street Services
Joint Report No. 1

ADOPTED BY THE BOARD OF
PUBLIC WORKS OF THE CITY
of Los Angeles, California
AND REFERRED TO THE CITY COUNCIL
APR 10 2006


Secretary

April 10, 2006
CD Nos. ALL

**REVISIONS TO RECOMMENDED MODIFICATIONS TO THE BUREAU OF ENGINEERING'S POLICY ON
SIDEWALK DINING WITHIN THE PUBLIC RIGHT-OF-WAY, ADOPTED SEPTEMBER 16, 2005 -
CLARIFICATION OF LANGUAGE IN RECOMMENDATION NO. 2**

RECOMMENDATIONS

1. That your Board approve the revisions made to the Recommended Modifications to the Bureau of Engineering's Policy on Sidewalk Dining, adopted on September 16, 2005.
2. That your Board transmit a copy of the approved report to the City Council for approval of fees proposed in Item No. 2 of the Discussion Section of this report and request the City Attorney to prepare a draft ordinance for the proposed fees for City Council approval and Mayor's signature.
3. Transmit a copy of this report to the following Departments and Bureaus:
 - a. Bureau of Engineering (BOE), Central District Office at 201 N. Figueroa St, 3rd Floor, Mail Stop 503, Attention: Lem Paco, P.E.
 - b. Bureau of Street Services (BSS), 600 S. Spring Street, Suite 1200, Mail Stop 550.
 - c. Department of Building and Safety (DBS), 201 N. Figueroa Street, Mail Stop 115
 - d. Department of City Planning, 200 N. Spring Street, Mail Stop 395 ✓
 - e. City Attorney's Office, 200 N. Main Street, Mail Stop 140 ✓

TRANSMITTALS

1. Sidewalk Dining Revocable Permit Flowchart
2. Examples of Adjacent Properties
3. Notification Letter to Adjacent Property Owners
4. Display Permit

DISCUSSION

Background

On June 30, 2005, The Board of Public Works ("Board") instructed the BOE to review the current revocable permit policies with regard to Sidewalk Dining and report back to the Board in 60 days. BOE headed a task force along with the BSS, the City Planning

Department, the DBS and Council District 5 representatives to review the current policies. The Task Force held several meetings to discuss the policies and agreed to the following revised policy, which includes a mechanism to monitor and update the permit to ensure continuous compliance.

Proposed Sidewalk Dining Policies

All revocable permits require application fees, a sketch, proof of sufficient liability insurance, waiver of damages and photographs of the encroachment area. In addition to the standard requirements for revocable permits, all applications for sidewalk dining (Transmittal No. 1) shall be subject to the following requirements:

1. Outdoor dining in the public sidewalk (public right-of-way) shall comply with the requirements set forth in the Los Angeles Municipal Code (LAMC) Section 12.03 (Outdoor Eating Area) and the Zoning Administrator's Interpretation (ZAI) of zoning regulations related to outdoor dining in ZAI 1808 (Dining Terraces or Outdoor Patio Dining) as applied to private property by the DBS.
2. Revocable permits for Sidewalk Dining shall be subject to an Inspection and Administrative Fee in the amount of \$300, to be paid bi-annually (every two years) after the initial permit is issued. The fee shall be paid to the City of Los Angeles, BOE no later than 30 days prior to the expiration date displayed on the permit. The Inspection and Administrative Fee is required to recover costs associated with field inspection and administrative time the Department of Public Works dedicates to verifying and updating revocable permit documentation. All previously issued permits for sidewalk dining will be subject to the bi-annual fee.
3. BOE personnel shall notify, in writing, all property owners adjacent to the proposed encroachments as shown in Transmittal No. 2. The notification letter shall include a description and sketch detailing the scope of the proposed encroachments (Transmittal No. 3). BOE shall notify the appropriate Council District office and local Neighborhood Council to obtain their position on the proposed encroachments. The issuance of the revocable permit shall be subject to appeal by adjacent property owners. Appeals must be received, in writing, within 14 calendar days of the date of the notification letter. If no appeals are submitted to BOE within 14 calendar days of the date of the notification letter, BOE personnel shall continue the revocable permit process. Appeals of BOE's determination on the proposed encroachments require a board report which will be heard by the Board at a regularly scheduled public meeting.
4. A display permit shall be posted in plain view from the outside of the restaurant indicating the approved encroachments permitted in the public right-of-way (Transmittal No. 4).
5. Maintain a 7-foot clear space between encroachments (tables and chairs) and obstructions, such as power poles, street lights, parking meters and trees.

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6. Pay Sewerage Facility Charge (SFC) fees for the additional seats added to the restaurant. Fees will be determined by BOE personnel.
7. Maintain the sidewalk in front of the restaurant in a clean and uncluttered manner at all times.
8. If railings are proposed by the applicant, they shall be a minimum height of 30 inches and a maximum height of 42 inches. The railings shall be attached to the sidewalk by a method approved by BOE personnel. Attached railings shall be installed by obtaining an A-Permit and installed at locations approved by BOE personnel. Tables and chairs must be removed during non-business hours.
9. No encroachments will be allowed within the visibility triangle as described in the Los Angeles Municipal Code Section 62.200.
10. Applications for all new revocable permits for sidewalk dining shall be charged the "Field Investigation Required" fee of \$963 (\$900 + 7 percent) per the current BOE fee schedule dated January 1, 2005, "Standard Fees, Charges and Deposits".
11. If a full hearing before the BPW is required, the applicant shall be charged the "Full Board Report" fee of \$2,568 (\$2,400 + 7 percent) per the current BOE fee schedule dated January 1, 2005, "Standard Fees, Charges and Deposits".
12. Umbrellas approved by BOE personnel shall be mounted in a stable base to prevent accidental or wind-blown tipping over.
13. A change in the restaurant ownership will require a new revocable permit application to be submitted and approved. If the application is approved, a new permit shall be issued once the new restaurant owner information, proof of liability insurance and Waiver of Damages is provided.

Proposed Plan for Unpermitted Sidewalk Dining

In order to establish the Sidewalk Dining policy citywide, it will necessitate the identification of unpermitted sidewalk dining locations currently in existence. This may be accomplished by utilizing the BSS, Street Services Investigators as part of their daily inspection routine and during responses to complaints.

In order to help distinguish between permitted and unpermitted encroachments, the BOE will "geocode" all existing permitted sidewalk dining permits on NavigateLA and provide a list of these locations to the inspectors. With the list of permitted locations, the inspectors will be able to identify which restaurants have obtained the proper permits:

Joint Report No. 1

Page 4

The investigators will cite the unpermitted locations and require the removal of the encroachments until a sidewalk dining permit is obtained.

The BOE and the BSS, Investigation and Enforcement Division have discussed the issue and it was agreed that Street Services Investigators would be utilized from various programs within the Bureau of Street Services.

Therefore, we recommend granting the City Engineer authority to modify the revocable permit policies for Sidewalk Dining and work with the City Attorney to draft an ordinance for City Council approval to allow changes to the current fee structure by charging Inspection and Administrative fees for Revocable Permits with the specific purpose of Sidewalk Dining.

(LMP CWR GH NS)

Report prepared by:

Respectfully submitted,

Central District



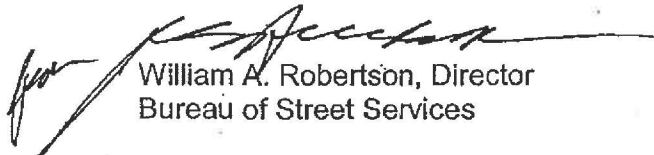
Lemuel M. Paco, P.E.
District Engineer
Phone No. (213) 482-7049

Gary Lee Moore, P.E.
City Engineer

LMP/WT/01-2006-0024.CEN,fdc

Questions regarding this report
may be referred to:

Writer: Wesley Tanijiri, P.E.
Phone No. (213) 482-7062
Fax No. (213) 482-7007



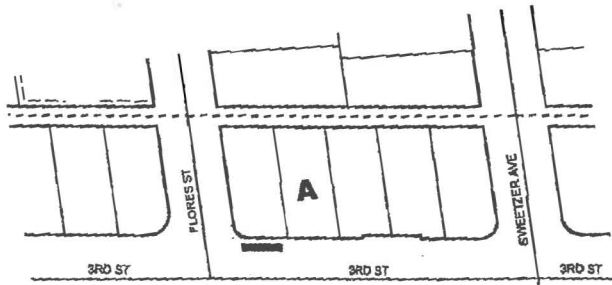
William A. Robertson, Director
Bureau of Street Services

Transmittal No. 1

EXAMPLES OF ADJACENT PROPERTIES

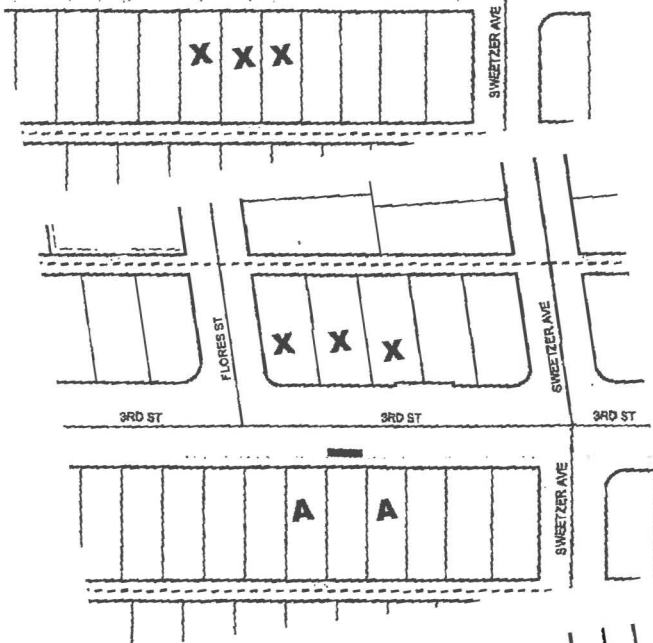
Example 1

Corner lot with encroachment proposed on the frontage of one street. One Adjacent lot with three lots located across the street.



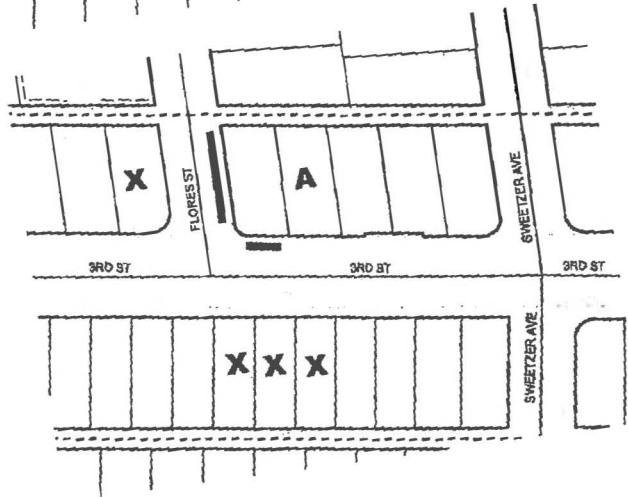
Example 2

Mid-block lot with encroachment proposed along the frontage. Two Adjacent lots with three lots located across the street.




Example 3

Corner lot with encroachments proposed along the frontage of both streets. One Adjacent lot with four lots located across the street.



Legend

-  Proposed encroachment
- A** Adjacent Lot
- X** Lot Across the street

BOARD OF PUBLIC WORKS
MEMBERS

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ERIC GARCETTI
MAYOR

DEPARTMENT OF
PUBLIC WORKS

BUREAU OF
ENGINEERING

GARY LEE MOORE, PE, ENV SP
CITY ENGINEER

1149 S. BROADWAY, SUITE 700
LOS ANGELES, CA 90015-2213

<http://eng.lacity.org>

Date

Mr. & Mrs. Property Owner
Address
City, State, Zip Code

Subject: **NOTIFICATION OF PROPOSED SIDEWALK DINING
RESTAURANT ADDRESS – RESTAURANT NAME
Application Reference No.**

_____ is proposing to encroach into the public right-of-way along the building frontage. The proposed outdoor patio area includes ____ chairs and ____ tables and a ____ high removable railing that are encroaching up to ____ into the public right-of-way along _____. A site plan of the proposed encroachments is enclosed for your information.

The Bureau of Engineering has made a preliminary determination that the proposed encroachment meets the requirements for issuance of a sidewalk dining permit. If you wish to appeal this determination, you must reply in writing within **14 days** of the date of this letter. Please submit your letter of appeal to the following address:

City of Los Angeles
Bureau of Engineering
Central District Office M.S. 503
201 N. Figueroa Street, 3rd Floor
Los Angeles, CA 90012
Attn: District Engineer

If you have any questions or concerns regarding the proposed sidewalk dining, please contact _____ by email at _____@lacity.org.

Sincerely,

District Engineer
Central District

Attachments: Site Plan

cc: Council District

Transmittal No.1



CITY OF LOS ANGELES
Department of Public Works
Bureau of Engineering

**REVOCABLE PERMIT
FOR
SIDEWALK DINING**

Is hereby granted to: RESTAURANT NAME

Address: 1234 MAIN ST

For: 4 Tables, 8 chairs, 2 umbrellas

R-0550-01234

W-123456

Date Issued: 09/01/2005

Expires: 09/01/2007

DRAFT

M O T I O N

I HEREBY MOVE that Council AMEND the Transportation Committee report relative to developing a permanent Al Fresco program (Item No. 39, Council file No. 20-1074) to include the following recommendation:

DIRECT the CLA, LADOT, and the Bureau of Engineering, with the assistance of the Bureau of Street Services, the Los Angeles Department of Building and Safety and the Department of City Planning, the Los Angeles Fire Department, and any other departments, as needed, to closely examine and consider the San Pedro Outdoor Dining Pilot Program as a potential option when developing recommendations relative to the feasibility of creating a citywide permanent Al Fresco program.

PRESENTED BY: _____

JOE BUSCAINO

Councilmember, 15th District

SECONDED BY: _____

MIKE BONIN

Councilmember, 11th District

November 4, 2020

TRANSMITTAL NO. 3

TRANSPORTATION COMMITTEE REPORT relative to the feasibility of developing a permanent AI Fresco program that allows for a streamlined outdoor dining permit process.

Recommendations for Council action, as initiated by Motion (Ryu – Buscaino):

1. DIRECT the Chief Legislative Analyst (CLA), the Los Angeles Department of Transportation (LADOT), and the Bureau of Engineering, with the assistance of the Bureau of Street Services, the Departments of Building and Safety and City Planning, the Los Angeles Fire Department, and the City Attorney, to report relative to the feasibility of developing a permanent AI Fresco program that allows for a streamlined outdoor dining permit process, including but not limited to a potential program structure, eligibility criteria, safety and infrastructure requirements, and a plan that would enable interested businesses to opt-in to the permit program.
2. DIRECT the CLA, with the assistance of the City Attorney, Bureau of Engineering, and the LADOT, to report on any changes to State, County, and City Codes needed to effectuate this program.

Fiscal Impact Statement: Neither the City Administrative Officer nor the CLA has completed a financial analysis of this report.

Community Impact Statement: Yes

For: Los Feliz Neighborhood Council

SUMMARY

On August 25, 2020, Council considered Motion (O'Farrell – Martinez) relative to the feasibility of developing a permanent AI Fresco program that allows for a streamlined outdoor dining permit process. Motion states that in May, 2020, the Mayor announced the LA AI Fresco program. LA AI Fresco endeavors to help local food purveyors reopen safely and allow customers and employees to maintain physical distancing by temporarily relaxing the rules that regulate outdoor dining. LA AI Fresco is a program that allows restaurants, permitted sidewalk food vendors, and food trucks to use sidewalks, private parking lots, street parking spaces, lane closures, and street closures for dining.

Motion goes on to state that the LA AI Fresco Program, which has received positive feedback from restaurants, diners, and restaurant adjacent neighborhoods, looks to support the heavily impacted industry by allowing restaurants to continue to operate in a safe, physically distanced setting. Additionally, in many instances, outdoor dining has provided additional dining space for smaller, family owned restaurants, while taking advantage of Southern California's climate and preserving the unique character of neighborhoods with smaller shops and restaurants.

Motion movers believe that, after the local emergency is lifted, flexible outdoor dining settings should continue to be made available. Motion recommends that Council direct the CLA, in conjunction with other City agencies, report on the processes and steps necessary to develop a permanent AI Fresco program. Council referred Motion to the Transportation Committee for consideration.

At its meeting held October 19, 2020, the Transportation Committee discussed this matter with representatives of LADOT and the Council District Office Four. Committee members expressed support for the program, noting its popularity with restaurant owners and consumers. It was stated that implementation has been a challenge. Councilmember Buscaino suggested that the successful outdoor dining program launched in San Pedro be used as a model to expand the program citywide. Councilmember Koretz expressed support for streamlining the application process. The Committee Chair, Councilmember Bonin suggested that the City Attorney determine what ordinances and land use entitlements such as conditional uses are needed to fully implement the program.

The Transportation Committee recommended that Council approve Motion's recommendations, as amended to include the Fire Department among the list of City agencies to report to Council, and as further amended to add any changes of City Codes needed for permanent implementation of this program.

Respectfully Submitted,

TRANSPORTATION COMMITTEE

<u>MEMBER</u>	<u>VOTE</u>
---------------	-------------

BONIN:	YES
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BUSCAINO:	YES
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KORETZ:	YES
---------	-----

jaw

-NOT OFFICIAL UNTIL COUNCIL ACTS-

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: March 11, 2021

TO: Honorable Members of the Council

FROM: Sharon M. Tso 
Chief Legislative Analyst

Council File No: 20-1074
Assignment No: 20-11-1008

SUBJECT: Status Report on Establishing a Permanent L.A. Al Fresco Program.

SUMMARY

On November 4, 2020, the Council approved the following instructions relative to the feasibility of developing a permanent L.A. Al Fresco program that allows for a streamlined outdoor dining permit process (C.F. 20-1074):

- Direct the Chief Legislative Analyst (CLA), the Los Angeles Department of Transportation (LADOT), and the Bureau of Engineering, with the assistance of the Bureau of Street Services, the Departments of Building and Safety and City Planning, the Los Angeles Fire Department, and the City Attorney, to report relative to the feasibility of developing a permanent L.A. Al Fresco program that allows for a streamlined outdoor dining permit process, including but not limited to a potential program structure, eligibility criteria, safety and infrastructure requirements, and a plan that would enable interested businesses to opt-in to the permit program.
- Direct the CLA, with the assistance of the City Attorney, Bureau of Engineering, and the LADOT, to report on any changes to State, County, and City Codes needed to effectuate this program.
- Direct the CLA, LADOT, and the Bureau of Engineering, with the assistance of the Bureau of Street Services, the Los Angeles Department of Building and Safety and the Department of City Planning, the Los Angeles Fire Department, and any other departments, as needed, to closely examine and consider the San Pedro Outdoor Dining Pilot Program as a potential option when developing recommendations relative to the feasibility of creating a citywide permanent L.A. Al Fresco program.

Our Office consulted with various departments that are involved in the implementation of the L.A. Al Fresco Pilot Program, as instructed by the City Council. As a result of these discussions, it became clear that there are numerous issues and considerations that require more extensive review in order to transition the existing pilot program to a permanent status. These challenges require further detailed analysis by the implementing departments, as well as input and coordination with affected communities. This report, therefore, provides a summary of the current program, identifies areas for further analysis, and offers some refinements to the Council instructions in order to accommodate both a short- and long-term permanent outdoor dining program.

CLA RECOMMENDATION:

That the City Council:

1. Request the City Attorney to report on the feasibility of revising the LADOT People St. Program to allow restaurants exclusive use of the public right-of-way.
2. Instruct the Bureau of Engineering, working with the Department of Transportation, to report with recommendations to revise the Sidewalk Dining Program and the People St. Program, as appropriate, to expeditiously transition all existing L.A. Al Fresco Pilot Program participants that are operating in the public right-of-way into permanent sidewalk dining locations, including the identification of specific locations that can quickly be made permanent with minimal effort.
3. Instruct the Departments of Building and Safety, City Planning and the Los Angeles Fire Department to report with recommendations to develop a new category under the Restaurant and Small Business Express Program (RSBEP), or another appropriate regulatory framework, for outdoor dining on private property that is operating under the L.A. Al Fresco Pilot Program, including any changes to State, County, and City Codes needed to effectuate this program, including the identification of specific locations that can quickly be made permanent with minimal changes.

BACKGROUND

On May 29, 2020, the L.A. Al Fresco Pilot Program (Pilot Program) was launched to support outdoor dining opportunities for restaurants affected by the COVID-19 crisis, in coordination with the Los Angeles County Department of Public Health. The Pilot Program was implemented under the City's Safer L.A. emergency authority to provide temporary opportunities for outdoor dining on public right-of-way (sidewalks and streets) and private property (parking lots). The Pilot Program provided an option to help local restaurants partially reopen by providing more square footage for business operations while maintaining physical distance recommended by public health officials.

As part of the Pilot Program, the Mayor directed the Los Angeles Department of Transportation (LADOT) to develop an application portal and launch a Street Dining Temporary Use Authorization. The Bureau of Engineering was also directed to issue authorization for sidewalk dining and the Department of Building and Safety was instructed to issue authorization for private property dining. Interested businesses can typically complete an online application in less than 20 minutes and, at no cost to them, receive a digital City-issued authorization to set up a dining area on the sidewalk or on private property with the property owner's consent. LADOT staff review the feasibility of curbside dining and street closure applications and assess field conditions to make engineering decisions that ensure the safest project. Businesses are required to provide their own tables and chairs. To date, the City has provided free traffic control equipment (barricades, planters, bollards) and shade umbrellas where needed for curbside dining and street closures. The City will continue to provide these materials until LADOT has distributed all available equipment, prioritizing communities that have been most impacted by COVID-19 job loss or are historically disadvantaged.

People St. Program - The L.A. Al Fresco Pilot Program used LADOT's existing People St. Program as a framework to inform eligibility criteria and implementation of outdoor dining in the

street. The People St. Program was created in 2014 as a collaboration with the Departments of Public Works and City Planning, and the Los Angeles County Metropolitan Transportation Authority (Metro) to create a one-stop shop for transforming L.A.'s streets into active, accessible spaces for people. The projects include plazas, parklets, and bicycle corrals that are located in one or more on-street parking spaces or an underutilized travel lane. Projects are permitted for a year with the option to renew.

People St. Program applications are sponsored by a community organization and follow a multi-step application, review, and selection process that includes site location review, community outreach, the issuance of a Memorandum of Understanding and "A" permit (LAMC 62.106.a), environmental review, as well as inspection of projects and post-installation public life surveys. In considering whether to approve sites, LADOT carefully considers whether applicants demonstrate the necessary organizational skills, capacity, and initiative to facilitate community outreach, fund design and materials procurement, and conduct comprehensive maintenance of the site.

It is important to note that People St. projects remain public spaces for everyone to enjoy. Project sponsors or adjacent businesses may not restrict usage or limit access to their customers. Additionally, nearby land uses should include food service, retail, transit facilities, and cultural institutions to support the natural functions of a viable parklet site.

Sidewalk Dining Program - Prior to the L.A. Al Fresco Pilot Program, the City offered restaurants two options to provide outdoor dining: construct a permanent patio structure on private property or seek a Revocable "R" Permit through the Board of Public Works Sidewalk Dining Program. The "R" permit grants a conditional encroachment for restaurants to occupy the adjacent right-of-way for dining purposes. Once an application has been received, the Bureau of Engineering reviews applicable regulations including but not limited to: allowable locations; liability insurance and waiver of damages, minimum clearance needs, appropriate umbrellas, planters and furniture, allowable number of seats, visibility, and a host of other requirements to ensure the safety of customers and pedestrians. If there are violations of the permit conditions, the permit can be revoked.

Outdoor Dining on Private Property - Under the L.A. Al Fresco Pilot Program, outdoor dining on private property is automatically approved through the online application process with no detailed analysis or involvement from Building and Safety. Prior to the COVID-19 Pandemic, outdoor dining was limited to locations that obtained a building permit for covered or uncovered outdoor dining areas. To make the permitting and inspection process more efficient, enabling restaurants and small businesses to open in a timely, efficient, and coordinated manner, in 2010, the Department of Building and Safety created the complementary Restaurant and Small Business Express Program (RSBEP) (formerly named the Restaurant and Hospitality Express Program). The RSBEP is aimed at small businesses such as nail salons, barbershops, breweries, and retail stores that are undertaking a construction project with a permit valuation under \$1,000,000. Restaurants and bars may apply to the program regardless of permit valuation.

There is no existing mechanism to transition the temporary L.A. Al Fresco Pilot Program on private property to a permanent program. All of the current requirements for restaurant operations

are based on brick and mortar buildings with specific requirements for the number of restrooms, ceiling heights, accessibility accommodations, and vermin protection, just to name a few. The tents currently serving as outside seating would need to be removed and replaced with a solid structure, which would require owners to apply for a building permit through Building and Safety. The permit process ensures compliance with local and state laws when undertaking any construction that requires a building permit, such as the California Building Standards Code (Title 24) and the Los Angeles Municipal Code (LAMC). The Los Angeles Building Code and the Zoning Code are subsidiaries to Title 24 and the LAMC, which provide a broad set of requirements for “energy conservation, green design, construction and maintenance, fire and life safety, accessibility, and zoning.” These codes apply to all buildings in Los Angeles, including but not limited to “structural with all its associated mechanical, electrical, and plumbing systems, and zoning requirements. To continue the use of tents and umbrellas for outdoor dining on private property, local, state, and federal rules and requirements would need to be changed.

San Pedro Outdoor Dining Pilot Program

In 2019, the San Pedro Outdoor Dining Pilot Program was implemented through the Board of Public Works and the Office of Community Beautification (OCB) Adopt-A-Median Program. The Board’s action authorized OCB to grant revocable permission to encroach within the public right-of-way, subject to several conditions, to the San Pedro Property Owner’s Association to install 12 dining patios and parklets on sidewalks and adjacent curbside parking lanes in Downtown San Pedro along 5th, 6th, 7th and Centre Streets. A supplemental A-permit was issued, however, the City is awaiting the submission of proof of insurance and the execution of a Maintenance Agreement before issuance of an R-permit. The unique approach used for San Pedro is still in the pilot phase and a determination has not been made regarding its impact on the neighborhood or the feasibility of expanding the Adopt-A-Median Program to include such projects. A citywide approach for similar projects is currently available through the People St. Program, which will ensure all communities are required to follow standard processes and reviews, as well as equitable enforcement actions.

ANALYSIS

During the initial months of the stay-at-home orders, the economic emergency situation facing the food service industry necessitated the implementation of the L.A. Al Fresco Pilot Program. To address the urgent needs of restaurants, the City eliminated many of the steps outlined above to streamline outdoor dining approval for restaurants.

Restaurant owners, operators, and employees view the L.A. Al Fresco Pilot Program as an invaluable lifeline and the City has seen overwhelming demand. Nearly 2,400 restaurants have taken advantage of it and, currently, there are an estimated 103 curbside dining locations; 16 lane closures; 1,400 sidewalk dining locations; and 1,700 outdoor dining locations on private property. The Pilot Program continues to accept applications and did so even during the months that outdoor dining was not allowed.

While the Pilot Program has generally been successful during the past ten months of the COVID-19 Pandemic, if made permanent, will present technical and logistical challenges for operators, surrounding communities and businesses, as well as City staff. Given the emergency nature of the

existing program, community engagement surrounding the projects has been limited. A longer-term program will require a more robust community engagement process. In addition, when indoor dining resumes, additional outdoor dining space will increase restaurant occupancy, thereby raising numerous operational issues and increasing the potential for impacts to the surrounding community, as described in more detail below.

It is important to remember that the Pilot Program's success is due to the unprecedented demand for restaurants to establish service space that complies with public health requirements. This highlights the unmet public demand for establishing safe public spaces, as well as the availability of outside areas that saw a lower demand as a direct result of the stay-at-home orders. Once residents begin to resume their pre-Pandemic activities, such as driving to school and work and patronizing businesses, the public right-of-way or parking lots may no longer be appropriate or available for outdoor dining. Additionally, consideration should be given to the needs of other businesses that may depend on nearby parking and vehicular access. As business activity increases once the stay-at-home order is lifted, it is anticipated that all businesses will see an increase in customers. Additional square footage for a restaurant, once indoor dining is again allowed, may result in a significant increase in pedestrian and vehicular activity in some areas. The overall positive response to use of the Pilot Program project areas calls for the City to reevaluate the best uses of these spaces and equitable access. Using the lessons learned from the Pilot Program, enhancements can lead to a permanent program.

In discussions with various City departments, it became clear that there are numerous issues that would need to be addressed to transition each location authorized under the Pilot Program to permanent status. The following is a summary of the concerns raised by the Departments that would, at a minimum, need to be addressed for locations currently authorized in the public right-of-way:


- Exclusive use of public space by private businesses
- ADA accessibility
- Visibility of traffic, traffic signage, and other business signage
- Fire/life/safety issues
- Environmental review and approval
- Community outreach
- Meter revenue loss
- Quality of pavement determination
- City infrastructure maintenance issues (storm drains/street cleaning/sewer access)
- Program staff resource needs
- Traffic study work for travel lane closures
- Standardize permanent traffic control measures
- Inspection and enforcement
- Parking minimums for private property dining
- Address the State definition of alcohol service area
- Consider accepting off-site or shared parking to assist restaurants meet parking minimums

For locations currently authorized on private property, amendments to the zoning code or at the state level for building code requirements would be necessary:

- Permits associated with fire protection
- Green Code Compliance
- Building Code Compliance, e.g. foundation egress, accessibility, fire and life safety, mechanical/electrical/plumbing, fixture count, etc.
- LA County Department of Public Health requirements
- Specific plan, historical building, existing conditional use approvals of the site or building, and/or new entitlement relative to the zoning code, e.g. parking deficiency, alcohol sales, and land use violations, etc.
- Determination of Industrial Wastewater Permit, installation of a grease interceptor, and any other pre-treatment requirements
- Sewer and/or driveway related to additional floor area.
- Define usable space (patios)/determine if this space is part of the floor area
- Zoning Code Compliance, e.g., additional auto and bike parking, yards, loading zones, land use requirements such as outdoor entertainment, cooking, floor area, etc.
- Inspection and enforcement

CONCLUSION

One of the few bright spots in the COVID-19 Pandemic has been the opportunity to reimagine the use of outdoor space for food service and dining. Ongoing discussions regarding ways the City can re-emerge post- Pandemic include thoughtful consideration about how to continue to support the restaurant business through outdoor dining options. The L.A. Al Fresco Pilot Program did more than simply streamline requirements and approvals for outdoor dining; it virtually eliminated them. This was necessary to address the dire situation for the restaurant industry in the early days of the COVID-19 Pandemic, however, many other considerations must be examined once normal activities resume. Some of the current outdoor dining locations may be completely appropriate and easily transitioned to permanent status. Others may be deemed infeasible for long-term outdoor food service. As described above, there are a host of practical and technical issues that must be addressed by the respective oversight department.



Maria Souza-Rountree
by
KEK Analyst

SMT:msr

Attachments: Motion (Ryu - Buscaino)
Amending Motion (Buscaino - Bonin)

TRANSPORTATION

MOTION

Enhancing LA's Outdoor Dining by Permanently Adopting the City's Al Fresco Program

On May 29, during the COVID-19 Emergency Declaration and the City's Safer-At-Home and Safer LA orders, Mayor Eric Garcetti announced the LA Al Fresco program. LA Al Fresco aims to help local food purveyors reopen safely and allow customers and employees to maintain physical distancing by temporarily relaxing the rules that regulate outdoor dining. LA Al Fresco is a program that allows restaurants, permitted sidewalk food vendors, and food trucks to utilize sidewalks, private parking lots, street parking spaces, lane closures, and street closures for dining.

The LA Al Fresco Program, which has received tremendous feedback from restaurants, diners and restaurant adjacent neighborhoods, looks to support the heavily impacted industry by allowing restaurants to continue to operate in a safe, physically distanced setting. Additionally, in many instances, outdoor dining has provided additional dining space for smaller, family owned restaurants, while taking advantage of Southern California's climate and preserving the unique character of neighborhoods with smaller shops and restaurants.

After the local emergency is lifted, expectations for in-restaurant dining will likely have changed and flexible outdoor dining settings should continue to be made available. These outdoor dining options must follow ADA guidelines for the public right-of-way and additional safety measures implemented where necessary.

I THEREFORE MOVE that the Chief Legislative Analyst, Department of Transportation and Bureau of Engineering, with the assistance of the Bureau of Street Services, Department of Building and Safety, Department of City Planning and City Attorney, as needed, report back on the feasibility of developing a permanent Al Fresco program that allows for a streamlined outdoor dining permit process, including but not limited to a potential program structure, eligibility criteria, safety and infrastructure requirements, and a plan that would enable interested businesses to opt-in to the permit program.

I FURTHER MOVE that the Chief Legislative Analyst, with the assistance of the City Attorney, Bureau of Engineering and Department of Transportation, report on any changes to State or County Codes would need to be made in order to effectuate this program.

PRESENTED BY:



DAVID E. RYU
Councilmember, 4th District

SECONDED BY:

JOE BUSCAINO (Verbal)
Councilmember 15th District

AUG 2 5 2020

M O T I O N

I HEREBY MOVE that Council AMEND the Transportation Committee report relative to developing a permanent Al Fresco program (Item No. 39, Council file No. 20-1074) to include the following recommendation:

DIRECT the CLA, LADOT, and the Bureau of Engineering, with the assistance of the Bureau of Street Services, the Los Angeles Department of Building and Safety and the Department of City Planning, the Los Angeles Fire Department, and any other departments, as needed, to closely examine and consider the San Pedro Outdoor Dining Pilot Program as a potential option when developing recommendations relative to the feasibility of creating a citywide permanent Al Fresco program.

PRESENTED BY: _____

JOE BUSCAINO
Councilmember, 15th District

SECONDED BY: _____


MIKE BONIN
Councilmember, 11th District


November 4, 2020

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

Date: September 29, 2021

To: Honorable City Council
c/o City Clerk, Room 395, City Hall
Attention: Honorable Mike Bonin, Chair, Transportation Committee

From: Gary Lee Moore, City Engineer 
Bureau of Engineering

Seleta J. Reynolds, General Manager 
Department of Transportation

Subject: **SIDEWALK DINING AND PEOPLE ST. PROGRAM L.A. AL FRESCO UPDATE**

SUMMARY

In response to CF 20-1074, this report recommends a permitting process for existing and new L.A. Al Fresco participants to operate in the public right-of-way. This will allow for continued use of the public right-of-way for dining, but does not address all programmatic details needed for a permanent outdoor dining program.

RECOMMENDATION

That the City Council:

1. REQUEST the City Attorney, with the assistance of the Los Angeles Department of Transportation (LADOT), to draft an ordinance to establish application fees for on-street dining;
2. AUTHORIZE the LADOT to report back on the application fees collected for FY 2021-22 and seek Council approval to set up an appropriation account within Department of Transportation Trust Fund No. 840 based on the expenditure plan for the fees collected;
3. DIRECT LADOT to report back in 90 days with grant eligibility criteria and a process for selecting and prioritizing locations for funding through the contractual services provided for in the Fiscal Year 2022 budget.

BACKGROUND

In November 2020, the City Council directed the Chief Legislative Analyst (CLA), with the support of several departments, to report on the feasibility of developing a permanent Al Fresco Program.

The CLA report, presented to Council in March 2021, outlines the City's existing authority to issue private use permits for the public right-of-way. Under the COVID-19 emergency order, LADOT and the Bureau of Engineering (BOE) issue temporary use authorizations that allow businesses to set up outdoor dining in the public right-of-way. When the emergency order and the temporary L.A. Al Fresco Program

TRANSMITTAL NO. 5

expire, these temporary use authorizations will become invalid and businesses will need to obtain a revocable permit (R-Permit) for continued use of the sidewalk or on-street space for private use. As defined in LAMC Section 62.118.2, only BOE can issue R-Permits. The City's existing Sidewalk Dining Program has established procedures for obtaining R-Permits for sidewalk dining. In order to transition from temporary to permanent on-street dining, the City needs to establish the procedures for obtaining an R-Permit for on-street locations, including the fees associated with application review and meter revenue recovery.

On May 24, 2021, the City Council directed BOE and LADOT to report with recommendations on revising the Sidewalk Dining Program and the People St. Program to transition all existing L.A. Al Fresco Pilot Program participants that are operating in the public right-of-way into permanent sidewalk dining locations, including the identification of specific locations that can quickly be made permanent with minimal effort.

Al Fresco temporary use authorizations are currently set to expire on December 31, 2021. LADOT's authority to create temporary use authorizations for on-street dining, as established by the Mayor's Directive on L.A. Al Fresco will remain in effect for six months following the end of the City's Safer L.A. Emergency Order, pursuant to the Council action (CF 20-1074-S1).

DISCUSSION

Sidewalk Dining

The BOE recommends applying the existing Sidewalk Dining Program for establishments that want to continue offering sidewalk dining after the Al Fresco emergency order program ends. The current Sidewalk Dining Program rules are available in the BOE permit manual at <https://engpermitmanual.lacity.org/revocable-r-permits/technical-procedures/02-sidewalk-dining>. BOE is in the process of submitting a report to the Board of Public Works recommending consideration of certain policy changes that would simplify the process for applicants.

Implementation

BOE issued over 1,600 sidewalk dining temporary use authorizations since the launch of the program. BOE automatically approved Al Fresco emergency response authorizations for sidewalk dining upon completion of the application and self-certification to the program requirements.

BOE proposes to use the existing R-Permit process to transition these L.A. Al Fresco participants to the Sidewalk Dining Program as described in the BOE report dated June 16, 2021, under CF 20-0499. Businesses will need to apply for a Sidewalk Dining R-Permit. BOE anticipates that existing Al Fresco installations that meet the existing Al Fresco Sidewalk Dining Program requirements will generally be straightforward to transition to the regular Sidewalk Dining Program.

Staff Resources

Additional staff resources needs are unknown at this time. BOE estimates that there may be a need for up to three additional staff to support the Sidewalk Dining Program depending on the volume of applications received. Due to the high degree of uncertainty of the application volume, BOE is not requesting positions at this time but may request them in the future if it appears that they are needed.

On-Street Dining

LADOT's People St Program launched in 2014 to allow community groups to transform street space for public use. People St projects remain publicly accessible and are not tied to any individual business or organization. LADOT reviews and approves all applications to the People St Program and enters into an agreement with the applicant for the management, maintenance, and operation of the public space. Once that agreement is approved and all fees are paid, BOE issues an A-Permit for construction in the right-of-way.

Unlike the People St community partners, L.A. Al Fresco participants seek exclusive use of street space if they are to invest in and assume liability for on-street dining. LADOT recommends creating a stand-alone Al Fresco permitting process similar to the People St Program, to authorize long-term private use of street space for dining. In addition to an agreement and an A-Permit, the Al Fresco permitting process will require an R-Permit to allow for private use of the public right-of-way. Al Fresco applications will be accepted on a rolling basis.

LADOT will continue to partner with BOE to finalize a new inter-departmental application review and permitting process to establish on-street Al Fresco spaces. Upon adoption of the ordinance to establish application fees for on-street dining, LADOT will notify the businesses with temporary on-street dining authorizations and will provide an opportunity for these locations to apply prior to a full launch of the permanent program.

As of this report, 154 restaurants currently operate curbside dining areas. LADOT has already performed an engineering feasibility review of authorized on-street Al Fresco dining locations and anticipates that these dining areas can quickly be permitted through the permanent program, contingent upon compliance with land use conditions and permanent program requirements.

Application and Design Requirements

LADOT will review applications for suitability based on speed limit, the number of travel lanes, curb color, parking availability, and the distance to fire hydrants. If an on-street dining installation overlaps a neighboring property's frontage, LADOT will require a written agreement from that property owner.

In October 2020, LADOT received one-time funding from the Coronavirus Aid, Relief and Economic Security (CARES) Act, which allowed LADOT to purchase and install traffic control devices for on-street dining areas. Therefore, since its launch, L.A. Al Fresco has been free for restaurants to apply and participate. Without additional funding moving forward, applicants will need to purchase and install these traffic control devices at the direction of LADOT.

LADOT will provide specific guidelines as to what can be built within the dining area, will review and approve an applicant's design plans, and will inspect furnishings and structures after installation and on an ongoing basis to ensure compliance. Dining areas will need to include materials that are easily removable for street maintenance and emergencies and will need to comply with ADA requirements. Permanent program guidelines will require additional design guidance and conditions of approval from other departments such as the Los Angeles Fire Department and the Department of Building and Safety pursuant to requirements for health and safety.

Environmental Review

LADOT filed a Notice of Exemption (NOE) for temporary on-street dining under the current L.A. Al Fresco emergency response program. This exemption states the Project is categorically exempt by statute under Section 15269 of the State CEQA Guidelines. LADOT will need to perform an environmental review process and determine if the Department can file a programmatic NOE for permanent on-street dining. The repurposing of parking for outdoor dining should be categorically exempt. LADOT will need to draft, sign, and file the subsequent CEQA documents prior to the launch of the permanent program.

California Coastal Commission Permitting

In July 2020, the California Coastal Commission (CCC) provided the City with a waiver of coastal development permitting requirements for the L.A. Al Fresco Program while Executive Order N-33-20 and City's emergency order are in place. This determination is based on the City's acknowledgment that the proposed development will not result in the erection of any permanent structures valued at more than \$25,000.

LADOT has identified 18 curbside dining areas and two parking lane closures that are within the coastal zone boundary and may be subject to permit requirements after the emergency order ends. These businesses will need to file for a Coastal Permit exemption, which the Department of City Planning will review.

Staff Resources

In the Fiscal Year 2022 budget, City Council provided LADOT resolution authority and six-months funding for three positions to support the future Al Fresco Program - one Supervising Transportation Planner I, one Engineering Associate III, and one Management Analyst. These positions will provide LADOT with the resources to permit existing on-street dining participants for permanent operation, as well as reviewing and processing new applications at a later date. LADOT can begin the hiring process for these three positions after January 2022.

Grant Opportunities

The Fiscal Year 2022 budget includes one-time contractual services funding in the amount of \$1,614,791 to create grant opportunities for restaurants in low-income neighborhoods to set up outdoor dining areas. LADOT is assessing the datasets and methodology needed to determine the eligibility criteria, the process for grant distribution, and the types of expenditures the grants could cover.

Costs

LADOT recommends fees associated with application review and use of metered spaces in order to make the program cost-neutral, unless the City identifies additional funding sources or other cost recovery mechanisms.

The CAO has reviewed and approved LADOT's fee study for application review. This study recommends the following fees specifically for on-street dining applicants.

Application Review Fee (for existing participants): \$1,200

Application Review Fee (for new participants): \$1,500

Parking Meter Head Removal: \$230 first meter + \$58 each additional

Parking Meter Usage Fees: Options for annual usage fees can include full cost recovery based on meter rate and hours (approximately \$1,500 - \$17,500 per space), historical revenue generated by a meter (approximately \$450 - \$9,000 per space), or no usage fees. Options may also include subsidies for the first year and/or payment plans.

Applicants would pay these fees directly to LADOT. Upon approval by LADOT, the business would pay an R-Permit Tier 1 fee (\$556) and a Sewer Facility Charge to BOE. If the on-street dining area requires minor construction, the business would need to apply for an A-Permit.

A new ordinance is required to implement a permanent permit process with associated fees.

FISCAL IMPACT

Over 60% of Al Fresco curbside dining areas use one or more paid parking spaces, which include single-space meters and paid parking stalls. Currently, restaurants have repurposed 297 single-space parking meters and 41 paid parking stalls for on-street dining. The annual revenue generated by these paid parking spaces totaled \$1,082,668 in 2019. This presents a long-term fiscal impact to the Special Parking Revenue Fund (SPRF).

One hundred fifty-four (154) businesses are currently operating on the street in curbside dining areas. If these businesses apply into the permanent program, this would result in one-time application review fees totaling \$184,800. LADOT recommends depositing these fees into the Department of Transportation Trust Fund No. 840 to support an expenditure plan for staff positions.

SJR:DM:jg

ECONOMIC DEVELOPMENT COMMITTEE REPORT relative to changes to streamline City processes affecting the Food and Beverage Industry.

Recommendations for Council action:

1. INSTRUCT the Bureau of Engineering (BOE) to evaluate and report on the following possible changes in operations generated from the Food and Beverage Working Group discussions:
 - a. Coordinate with other City departments, as appropriate, and to report to Mayor and Council with options available to streamline the process of permitting sidewalk dining, including the potential for the City to adopt the streamlined Al Fresco permit process model, including implementing a fee for program cost recovery.
 - b. Work with the City Attorney's Office to assess whether the current liability waiver and insurance requirements address liability concerns.
2. INSTRUCT the Los Angeles Department of Transportation (LADOT) to evaluate and report on the fiscal impact of extending the Food Pick-up Zone Program indefinitely.
3. REQUEST that the Los Angeles Police Commission evaluate and consider accepting and processing live music and/or dancing permit applications concurrently with the building permit process.
4. INSTRUCT the Los Angeles Department of Building and Safety (LADBS) to evaluate and report on the following possible changes in operations generated from the Food and Beverage Working Group discussions:
 - a. Consider requiring employee email signatures to include a statement of the LADBS' current response policy (up to 2 business days), regular days off, and supervisor contact information and to list availability of virtual meetings for plan check until normal in-person plan check procedures are resumed.
 - b. Consider implementing a procedure at the plan check submittal phase for staff to advise applicants when plans will need to be reviewed by the Los Angeles Fire Department (LAFD).
 - c. Consider implementing a procedure at the plan check submittal phase for staff to alert applicants of their eligibility to apply to the Restaurant and Small Business Express Program.
 - d. Consider the effectiveness and constraints of potential implementation of Self-Certification of simple projects, including tenant improvements and small new construction projects, similar to current standards utilized in Chicago, New York, and, locally, Bellflower.
5. INSTRUCT the Department of City Planning (DCP) to evaluate and report on the following

possible changes in operations generated from the Food and Beverage Working Group discussions:

- a. Consider continuing to offer applicants the drop-off option for entitlement case filing at the Development Services Center, post COVID-19 emergency operations process.
 - b. Consider the continuation of providing building permit clearance when the entitlement case (generally Conditional Use Beverage [CUB]) has no bearing or impact on physical construction.
 - c. Consider a revision to the Los Angeles Municipal Code (LAMC) Section 12.03 of the zoning code to eliminate the limitation on outside dining area floor area and location.
 - d. Consider thresholds to allow minor redesigns and deviations for valid CUB and CUX entitlements without requiring a discretionary Plan Approval process, including minor deviations related to 'mode and character' that would generally be less impactful than the existing operation.
 - e. Consider the effectiveness and constraints of the suspension of minimum parking requirements for Food Service Establishments during a local emergency as referenced in Article 6 of the LAMC, in line with current code amendment efforts.
 - f. Consider suspending both the enforcement and implementation of any parking-related conditions in CUB entitlements (i.e. off-site leases, valet service, etc.).
 - g. Consider continuing to allow sales of alcoholic beverages for off-site consumption, as long as the State continues to allow sales for offsite consumption.
 - h. Consider the necessity and/or benefits of extending all expiring conditional use permits for a period of up to 36 months after the expiration of the Coronavirus COVID-19 Emergency Declaration, unless there is an active revocation proceeding relative to the operation.
 - i. Consider the effectiveness and constraints of formally repealing LAMC Section 12.22 A.23(b)(5) requiring owners of commercial properties next to residentially zoned properties to record covenants limiting commercial operations and consider alternative compliance measures.
6. INSTRUCT the LAFD to evaluate and report on the following possible changes in operations generated from the Food and Beverage Working Group discussions:
- a. Consider the defined parameters necessary to allow for small construction and tenant improvement projects to undergo plan checks by video conference appointment.
 - b. Consider immediately notifying applicants by email when plan corrections are available.
 - c. Consider updating the inspection services website to provide customers a description

of 'pre-walk' inspections and notify of their availability.

- d. Consider including 'pre-walk' inspection descriptions and availability within the standard reply customers are emailed when receipts for plan check services paid are completed.

7. REQUEST the Los Angeles Department of Water and Power to evaluate and report on the following possible changes in operations generated from the Food and Beverage Working Group discussions:

- a. Consider creating a case management system to oversee applications for service upgrades from application through delivery.
- b. Consider conducting a study on whether service upgrades can run concurrently with building permit applications, without waiting for building permits to be issued, and a provision allowing applicants to be liable for upgrades if projects are discontinued.

8. INSTRUCT the Bureau of Sanitation to evaluate and report on implementing the COVID-19 Industrial Waste Fee Relief Program (which would suspend the delinquency fees for the 1st and 2nd billing quarters and provides options for installment payments) to assist Industrial Users experiencing financial hardship due to mandatory closures and loss of revenues.

9. INSTRUCT the LADBS, DCP, LAFD, BOE, LADOT, and Economic and Workforce Development Department (EWDD) to report to the Council and Mayor on an annual basis on steps each department will take to improve the policies and practices under their jurisdiction to assist small businesses.

10. INSTRUCT the Bureau of Street Services, LADBS, and LAFD to report on ways to streamline the process for approving tents, canopies, and awnings in the public right of way.

11. INSTRUCT the LADOT, LAFD, LADBS and any other City departments as needed, to report on streamlining processes for utilizing alleys for outdoor dining.

Fiscal Impact Statement: The EWDD reports that the recommendations presented above do not impact the General Fund.

Community Impact Statement: None submitted.

SUMMARY

At the meeting held on December 8, 2020, your Economic Development Committee considered an EWDD report relative to changes to streamline City processes affecting the Food and Beverage Industry. After an opportunity for public comment was held, the Committee moved to approve the recommendations contained in the report as amended, as detailed above. This matter is now forwarded to the Council for its consideration.

Respectfully Submitted,

ECONOMIC DEVELOPMENT COMMITTEE

<u>MEMBER</u>	<u>VOTE</u>
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PRICE:	YES
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BUSCAINO:	YES
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RODRIGUEZ:	YES
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ME 12/8/20

-NOT OFFICIAL UNTIL COUNCIL ACTS-

**BOARD OF PUBLIC WORKS
MEMBERS**

GREG GOOD
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MAYOR

**DEPARTMENT OF
PUBLIC WORKS**

**BUREAU OF
ENGINEERING**

GARY LEE MOORE, PE, ENV SP
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June 16, 2021

The Honorable Curren D. Price, Jr., Chair
Economic Development and Jobs Committee
Los Angeles City Council

The Honorable Bob Blumenfield, Chair
Public Works Committee
Los Angeles City Council

c/o Michael Espinosa
Office of the City Clerk
City Hall, Room 395

**COUNCIL FILE 20-0499 CORONAVIRUS/SAFER AT HOME/FOOD AND BEVERAGE
INDUSTRY OPERATIONS/STREAMLINE CITY PROCESS AND APPROVALS**

Dear Councilmembers:

RECOMMENDATION

Receive and file this report.

BACKGROUND AND DISCUSSION

On January 12, 2021, the City Council approved a report from the Economic Development Committee which contained the following Public Works Committee adopted the subject motion with the following instruction, among others:

INSTRUCT the Bureau of Engineering (BOE) to evaluate and report on the following possible changes in operations generated from the Food and Beverage Working Group discussions:

- a. Coordinate with other City departments, as appropriate, and to report to Mayor and Council with options available to streamline the process of permitting sidewalk dining, including the potential for the City to adopt the streamlined Al Fresco permit process model, including implementing a fee for program cost recovery.

TRANSMITTAL NO. 7



- b. Work with the City Attorney's Office to assess whether the current liability waiver and insurance requirements address liability concerns.

This report is a progress update on this first instruction. BOE has met with various City stakeholders to discuss the most efficient and effective way to transition existing Al Fresco sidewalk dining temporary approvals to regular approvals. After weighing alternatives with the stakeholders, the recommended approach to transition the sidewalk dining approvals is to continue to use the existing revocable permit process, but to analyze the Board of Public Works (BPW) policy on sidewalk dining to see if there are any revisions that could be recommended to be changed.

This approach is recommended because it is not the permit process itself that has been an issue for most applicants, but rather the City requirements that exist for sidewalk dining applications. Continuing to use the existing permitting vehicle would allow for faster implementation because a new permit and related processes would not have to be developed, and staff would not have to be retrained to learn a new process. BOE believes that this approach would provide the best balance of making the process easier on applicants while at the same time maximizing the processing efficiency of BOE staff.

BOE has analyzed all of the individual components of the existing BPW sidewalk dining policy and is drafting a Board Report containing recommended policy revisions for BPW consideration that would streamline the sidewalk dining process for applicants. BOE is nearing completion of the Board Report and expects to have it submitted for BPW consideration about a month from the date of this report.

Regarding instruction 1b and the request to revisit liability and insurance requirements, BOE has met with the City Attorney's office and in general the current revocable permit liability waiver and insurance requirements are satisfactory, although there may be some fine tuning of the language in the liability waiver. We will continue to meet with the City Attorney's office to finalize any language modifications.

If you have any questions concerning this matter, please contact BOE Deputy City Engineer, Ted Allen, at ted.allen@lacity.org.

Sincerely,



Electronically signed by 21866

Gary Lee Moore, PE, ENV SP
City Engineer

GLM/TA:jgr

Q:\GLM\City Engineer\GLM Signed Documents\2021 Documents\21-06-16 Al Fresco CF20-0499.docx

cc: Jennifer McDowell, Office of the Mayor