


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

JUN 23 2023


Executive Officer
Board of Public Works

Department of Public Works

Bureau of Engineering
Report No. 1

June 23, 2023
CD Nos. All

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 May 11, 2022, and to implement the use of the Special Engineering Fee as authorized by Ordinance No. 187722.

TRANSMITTALS

1. The proposed Board Policy on Sidewalk Dining.
2. Transportation Committee Report, adopted on November 4, 2020.
3. Transportation Committee Report, amended and adopted on October 20, 2021.
4. Report back from the Bureau of Engineering (BOE), dated November 17, 2021.
5. Public Works Committee Report, adopted December 7, 2021.
6. Motion adopted by the City Council on March 22, 2022.
7. Copy of the revised policy on sidewalk dining and automated LA AI Fresco Transition Process, adopted by the Board on May 11, 2022.
8. Copy of Ordinance No. 187722, effective on January 19, 2023.
9. Copy of Letter of Determination from the Los Angeles City Planning Commission, dated May 9, 2023

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

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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 the Transportation Committee Report, under Council File No. 20-1074-S1, to extend the LA AI Fresco authorizations six months beyond the end of the City’s Safer LA Emergency Order (Transmittal No. 2).

On October 20, 2021, the Board adopted the revisions to the standard Sidewalk Dining Policy. The revisions simplified the sidewalk dining permit process and made it less expensive by lowering the R-Permit fee from a Tier 2 fee to a Tier 1 fee, except when a site investigation is deemed necessary. The following are the key modifications in the revised Sidewalk Dining Policy as compared to the previous Sidewalk Dining Policy:

- Added the ability to front neighboring properties with property owner permission
- Added a clarification of the Pedestrian Access Route
- 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

Also, on October 20, 2021, the City Council adopted the Transportation Committee Report relative to establishing a permanent LA AI Fresco dining program (Transmittal No. 3). The City Council action included the following instructions, among others:

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4. *Direct the BOE to report in 30 days with recommendations to revise the Sidewalk Dining Program and R-Permit process 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 outreach to participating businesses to determine their interest and an assessment of whether the revised program will accommodate their locations.*
9. *AMENDED on October 20, 2021: Instruct all relevant departments – EWDD [Economic and Workforce Development Department], LADOT [Los Angeles Department of Transportation], DBS [Department of Building and Safety], City Planning, BOE, and BSS [Bureau of Street Services] – to come together and establish a single portal where all applications for temporary-to-permanent transitions of AI Fresco permits will be received (including on-street, sidewalk, and private property) and then funneled/transmitted to the relevant departments.*
10. *Instruct the BOE and LADOT to report back on a special outdoor dining permit process by which a single business stakeholder representative like a Business Improvement District or a Chamber of Commerce, may apply for an outdoor dining permit that covers multiple businesses in a commercial corridor.*

The subsequent report back on Item Nos. 4, 9, and 10 from the BOE related to expeditiously transitioning LA AI Fresco Program participants into permanent sidewalk dining permits was submitted to the Council File Management System on November 17, 2021 (Transmittal No. 4). The report recommended the following:

1. *Request the City Attorney to draft an ordinance to enable the BOE to utilize the Special Engineering Fee established in LAMC 61.14 to charge for R-Permits in cases where the time to process the R-Permit would be substantially less than the Tier 1 R-Permit fee would provide for.*
2. *Direct the BOE to present an automated LA AI Fresco transition process to the Board for their consideration.*
3. *Direct the BOE to report back to City Council within 30 days of the Board action to provide an update on the proposed LA AI Fresco transition process.*

On December 7, 2021, the City Council adopted the Public Works Committee Report relative to expeditiously transitioning the LA AI Fresco dining program participants into permanent sidewalk dining permits (Transmittal No. 5). The City Council action included

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the instructions which were identical to the recommendations in the report back dated November 17, 2021.

On March 22, 2022, the City Council adopted the Motion from Councilmember Marqueece Harris-Dawson and Councilmember Mike Bonin which moved the Council to adopt the recommendations contained in the Planning and Land Use Management Committee report dated March 1, 2022, with the following recommendations, among others (Transmittal No. 6):

1. *CONCUR with the recommendations of the Transportation Committee, dated February 1, 2022, attached to the Council file, as follows:*
 - a. *INSTRUCT the Department of City Planning (DCP), Los Angeles Department of Building and Safety (LADBS), Los Angeles Department of Transportation, Bureau of Engineering (BOE), and other applicable City departments, to develop a set of proposed regulations and processes, which are consistent and complementary, for a permanent Al Fresco and outdoor dining program.*
2. *DIRECT the BOE to create a portal for the Al Fresco program on the BuildLA web page, which will centralize applications for sidewalk dining, on-street dining, and outdoor dining on private property, as noted in the joint report from the DCP and LADBS dated December 22, 2021 (Joint Report), and as previously instructed by the Council on October 20, 2021 by Amending Motion (Raman - Rodriguez).*

On May 11, 2022, the Board adopted the revised policy on sidewalk dining and the automated LA Al Fresco transition process (Transmittal No. 7). The following are the key additions and modifications in the transition process and Sidewalk Dining Policy:

- Authorized the BOE to create and implement a new automated LA Al Fresco transition process to transition from the LA Al Fresco Sidewalk Dining Program to the Sidewalk Dining R-Permit and to utilize condition notes on the automated permit to ensure compliance with the Board Policy on Sidewalk Dining.
- Authorized the BOE to allow a six-month grace period after issuance of the automated R-Permits for applicants to submit the Waiver of Damages and liability insurance and to pay any applicable Sewerage Facilities Charges .
- Authorized the BOE to use the Special Engineering Fee, currently \$149 per hour, to charge the lower fee for the automated R-Permits conditional upon such lower fee being established by the City Council.
- Authorized the BOE to add a tile to the section of the BuildLA web page to centralize applications for sidewalk dining, on-street dining, and outdoor dining on private property.

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- Removed the requirement for business owners to record the Waiver of Damages on the property deed which would save time and cost for the LA AI Fresco participants when they transitioned to the R-Permits.

On December 6, 2022, a Notice of Status of Local Emergency was issued by Mayor Garcetti recommending the City Council to terminate the local emergency of March 4, 2020, effective on February 1, 2023. On the following day, the City Council approved the amending motion terminating the local emergency on February 1, 2023.

On December 19, 2022, Ordinance No. 187722 was published to amend the LAMC Section 62.118.2 to authorize the use of the Special Engineering Fee for certain R-Permit applications and to authorize a Department of Transportation Review Fee for R-Permit applications for roadway dining areas (Transmittal No. 8). The ordinance became effective on January 19, 2023.

Sidewalk Dining Policy

Following Ordinance No. 187722, the revised Sidewalk Dining Policy is submitted for consideration with this report to reflect the use of the hourly Special Engineering Fee and to be consistent with the Outdoor Dining Area Standards in the proposed ordinance, per the Letter of Determination from the Los Angeles City Planning Commission, dated May 9, 2023 (Transmittal No. 9). The proposed ordinance, amending LAMC Section 12.21.A.24 among others, is pending City Council approval.

Changes to the Sidewalk Dining Policy (Transmittal No. 1) are detailed as follows:

- Under Item No. 7 - Sidewalk Dining Permit Processing Fee:
 - Insert new bullet point "Special Engineering Fee for permits that require 3 hours or less of BOE staff processing time in accordance with the LAMC Section 62.118.2. The fee may apply to the LA AI Fresco participants who transition to R-Permit through the automated process."
- Under Item No. 12 - R-Permit Requirements (RPR) and Expiration:
 - Replace "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"
 - With "In cases where the scope change is minor compared to the original scope, the City Engineer may charge the fee according to the LAMC Section 62.118.2."
- Under Item No. 14 - Change of Permit Ownership:

- Replace “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”
- With “Special Engineering Fee, according to the LAMC Section 62.118.2, 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.”

- Under Item No. 17 - Alcohol:
 - Replace “requires a Conditional Use Permit”
 - With “currently requires approval.”
 - Add “outside” in front of “entities.”

- Under Item No. 19 - Smoking:
 - Replace “the LAMC Sections 41.50.A.5.a and 41.50.B.2.c”
 - With “the LAMC Section 41.50.”

- Under Item No. 20 - Noise Restriction:
 - Replace “All sidewalk dining areas shall operate no later than 10:30 p.m. if adjacent to any residential areas (this includes mixed-use)”
 - With “All sidewalk dining areas shall comply with the operational requirements in accordance with the LAMC Section 12.21.A.24 and any other applicable local rules and requirements.”

The automated transition process will require reprogramming of the BOE R- Permit web application. The reprogramming is underway and is planned to be completed well before the end of the LA AI Fresco Program.

The implementation of the Special Engineering Fee and adjustments in the current Board Policy on Sidewalk Dining will provide clarification to the existing LA AI Fresco participants and new applicants on the cases when the Special Engineering Fee can be applied and help streamline the R-Permit process.

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Respectfully submitted,

 for Ted Allen

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