


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.

Department of Public Works
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(WT RMK CL)

Report reviewed by:

BOE (ADM)

Report prepared by:

Central District

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District Engineer
Phone No. (213) 482-7049

WT/TS/05-2023-0075.CEN.Ik

Questions regarding this
report may be referred to:
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Respectfully submitted,

 for Ted Allen

Ted Allen, PE
City Engineer

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:

- 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 Al Fresco participants who transition to R-Permit through the automated process.
- 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; and submitted to the BOE for review.

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 the fee according to the LAMC Section 62.118.2.

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.

- 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.
- 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 currently requires approval from the Department of City Planning and California Department of Alcohol Beverage Control. Because alcohol falls under the jurisdiction of those outside entities and not the Board, Sidewalk Dining Permits will allow for serving or possessing alcohol within the sidewalk dining area provided proper 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 Section 41.50.

20. Noise Restriction

All sidewalk dining areas shall comply with the operation requirements in accordance with the LAMC Section 12.21.A.24 and any other applicable local rules and requirements.

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.

File No. [20-1074-S1](#)

TRANSPORTATION COMMITTEE REPORT relative to the status of the L.A. AI Fresco Program.

Recommendations for Council action:

1. INSTRUCT the Los Angeles Department of Transportation (LADOT) to:
 - a. Extend the L.A. AI Fresco Program, including the Street Dining Temporary Use Authorization Program, until at least six months after the end of the City's Safer L.A. Emergency Order.
 - b. Report with solutions or suggestions for implementing AI Fresco on streets with higher speed limits.
2. INSTRUCT the Bureau of Street Services to report relative to the enforcement and compliance of program requirements.
3. RECEIVE AND FILE the LADOT report dated October 5, 2020, relative to the status of the L.A. AI Fresco Program.

Fiscal Impact Statement: The LADOT reports that the L.A. AI Fresco Program installations will be funded through \$1.1 million that was originally allocated to the City's Open Streets Program. The sources of these repurposed funds are Metro grant funds, front-funded by Measure M local return funds, and City Measure M local return match funds. There is an unknown fiscal impact to the Special Parking Revenue Fund at each location where the L.A. AI Fresco installation replaces one or more metered parking spaces. There also may be a negative impact to the General Fund due to reduced parking enforcement revenue related to the decrease in parking spaces.

Community Impact Statement: None submitted.

SUMMARY

In a report to Council dated October 5, 2020, LADOT discusses the status of the L.A. AI Fresco Program. On May 29, 2020, the Mayor launched the L.A. AI Fresco Program to support businesses impacted by COVID-19 to assist them in staying open while safely practicing physical distancing for workers and patrons. The Mayor directed LADOT to launch a Street Dining Temporary Use Authorization program to authorize restaurants to use the public right-of-way for outdoor dining.

LADOT reports that the first phase of L.A. AI Fresco offered immediate authorization for restaurants to create temporary outdoor dining areas on sidewalks and on private property. Phase 2 of the Program, launched on June 26, 2020, expanded AI Fresco options to include curbside dining areas (parklets), lane closures, and full street closures. In Phase 2, LADOT set a goal of 55 percent of program resources supporting businesses located in communities with higher concentrations of Black, Indigenous, or People of Color (BIPOC), ownership that identified as BIPOC, or businesses located in neighborhoods heavily impacted by COVID-19.

TRANSMITTAL NO. 2

According to LADOT, local businesses have expressed overwhelming demand for L.A. Al Fresco. Nearly 2,000 restaurants have taken advantage of the program. LADOT reviewed over 350 on-street Al Fresco applications, installed 50 curbside dining areas, and implemented five lane closures. Thus far, LADOT provided these on-street dining options at no cost to the restaurants, but as the pandemic restrictions continue, the Department developed a new approach to reach as many restaurants as possible while preserving resources for where they are needed most. On June 26, 2020, LADOT installed its first curbside dining area to coincide with the launch of Al Fresco Phase 2. To date, LADOT installed 50 curbside dining areas and exhausted the Department's initial supply of heavyweight planters and shade parasols.

LADOT goes on to discuss approval criteria and requirements for street closures. Groups of restaurants or community organizations, such as Business Improvement Districts or Chambers of Commerce, can apply to close a lane or an entire street to create a larger on-street dining area in which multiple restaurants can operate. All street closures must provide space for City permitted street vendors and a group of City permitted street vendors can apply for their own closure. LADOT received over 150 closure applications, but the vast majority were submitted by individual restaurants, not by the eligible applicants mentioned above.

Finally, LADOT discusses program costs and sources of funding. To date, LADOT spent approximately \$376,263 in equipment costs to deliver on-street dining areas to restaurants across the City, including 50 curbside dining areas and five lane closures. The planters and shade parasols provided to curbside dining areas, critical to the safety and character of the space, account for the majority of the costs. Ongoing costs to maintain the existing installations through December 31, 2020 total an additional \$32,247.

At its meeting held October 19, 2020, the Transportation Committee discussed this matter with LADOT staff. Councilmember Bonin stated that the L.A. Al Fresco has been remarkably successful, and has also resulted in an unprecedented repurposing of public space for the benefit of workers, consumers, and local restaurants. The Committee Chair discussed continuation of the program, stating the business community prefers long term certainty. Department staff discussed CARE Act funding and whether a self-funding option needed for continuing the program into 2021.

LADOT staff went on to discuss installations in streets with higher speed limits, especially funding and engineering protection for diners and restaurant employees. It was further stated that the Department has contracted with CicLAvia to promote the program in disadvantaged communities. Committee members also discussed the importance of compliance with social distance orders. The Department representative stated that Bureau of Services conducts spot checks for social distance orders and will investigate reports of noncompliance.

The Transportation Committee recommended that Council receive and file the LADOT report. Committee further recommended that Council instruct LADOT to extend the L.A. Al Fresco Program until at least six months after the end of the City's Safer L.A. Emergency Order, and to report with recommendations for implementing Al Fresco on streets with higher speed limits. Finally, the Committee recommended that Council instruct the Bureau of Street Services to report relative to the enforcement and compliance of program requirements.

Respectfully Submitted,

TRANSPORTATION COMMITTEE

<u>MEMBER</u>	<u>VOTE</u>
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BONIN:	YES
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BUSCAINO:	YES
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KORETZ:	YES
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-NOT OFFICIAL UNTIL COUNCIL ACTS-

HOLLY L. WOLCOTT
CITY CLERK

PETTY F. SANTOS
EXECUTIVE OFFICER

City of Los Angeles
CALIFORNIA



ERIC GARCETTI
MAYOR

BPW-2023-0385
OFFICE OF THE
CITY CLERK

Council and Public Services Division

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PATRICE Y. LATTIMORE
DIVISION MANAGER

October 20, 2021

CLERK.LACITY.ORG

OFFICIAL ACTION OF THE LOS ANGELES CITY COUNCIL

Council File No.: 20-1074
Council Meeting Date: October 20, 2021
Agenda Item No.: 9
Agenda Description: TRANSPORTATION COMMITTEE REPORT relative to establishing a permanent Al Fresco dining program in the City of Los Angeles.
Council Action: TRANSPORTATION COMMITTEE REPORT - ADOPTED AS AMENDED BY MOTION (RAMAN – RODRIGUEZ) FORTHWITH

Council Vote:

YES	Blumenfield	YES	Bonin	YES	Buscaino
YES	Cedillo	YES	de León	YES	Harris-Dawson
YES	Koretz	YES	Krekorian	YES	Lee
YES	Martinez	YES	O'Farrell	YES	Price
YES	Raman	ABSENT	Ridley-Thomas	YES	Rodriguez

HOLLY L. WOLCOTT
CITY CLERK

Adopted Report(s) Title
Amending Motion (Raman-Rodriguez) 10-20-21
Report from the Transportation Committee - 10-5-21

TRANSMITTAL NO. 3

TRANSPORTATION COMMITTEE REPORT relative to establishing a permanent *Al Fresco* dining program in the City of Los Angeles.

Recommendations for Council action:

1. REQUEST the City Attorney, with the assistance of the Los Angeles Department of Transportation (LADOT), to prepare and present an Ordinance to establish application fees for on-street dining.
2. DIRECT the LADOT to report back on the application fees collected for Fiscal Year (FY) 2021-22; and, AUTHORIZE the LADOT to seek Council approval to set up an appropriation account within LADOT Trust Fund No. 840 based on the expenditure plan for the fees collected.
3. DIRECT the 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 FY 2022 budget.
4. DIRECT the Bureau of Engineering (BOE) to report in 30 days with recommendations to revise the Sidewalk Dining Program and R-Permit process 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 outreach to participating businesses to determine their interest and an assessment of whether the revised program will accommodate their locations.
5. DIRECT the Los Angeles Department of Building and Safety (LADBS) and Department of City Planning, with support from the Los Angeles Fire Department, to report back in 30 days with recommendations to change the applicable regulations and permit procedures to expeditiously make this transition.
6. DIRECT the CAO, in consultation with relevant departments, to report with recommended fees to exempt existing program participants, and minimize the overall cost of permitting and to balance our cost recovery needs with the economic development and neighborhood revitalization objectives.
7. INSTRUCT the LADOT to waive any parking meter related fees, as detailed in the subject joint LADOT and BOE report, in the permanent L.A. Al Fresco Program.
8. INSTRUCT the LADOT to report back on the feasibility of establishing an ongoing Al Fresco dining business support-fund to help offset costs.

9. INSTRUCT the Economic and Workforce Development Department to report back on the development of an Al Fresco dining business resource program made available online in multiple languages as well as through the City's business resource centers.
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.

Fiscal Impact Statement: Neither the CAO nor the Chief Legislative Analyst has completed a financial analysis of this report.

Community Impact Statement: None submitted.

SUMMARY:

At a regular meeting held on October 5, 2021, the Transportation Committee considered a joint report from the LADOT and BOE relative to establishing a permanent L.A. Al Fresco dining program in the City.

During the discussion representatives from the LADOT, BOE and LADBS provided an overview of the matter and answered key questions from the Committee members. The Committee Chair offered amendments fine-tuning the Department's report backs. The Chair's amendments were complemented by additional amendments from Councilmember Buscaino.

Councilmember Koretz emphasized the success that outdoor dining has had throughout the City, and how this option has been critical in saving some of the restaurants during the pandemic. At the same time, the Councilmember reminded the Committee of the importance of hearing from other businesses since the loss of parking may negatively impact other businesses, and it will be important to mitigate those issues as things move forward.

After providing an opportunity for public comment, the Committee recommended to adopt the joint LADOT and BOE recommendations as amended, as detailed in Recommendations No. 4 through No. 10.

This matter is now submitted to the Council for consideration.

Respectfully submitted,

TRANSPORTATION COMMITTEE

MEMBER
BONIN:
KORETZ:
BUSCAINO:

VOTE
YES
YES
YES

LC 10/05/21

-NOT OFFICIAL UNTIL COUNCIL ACTS-

ITEM No. 9 - A

M O T I O N

I MOVE that the matter of the Transportation Committee Report relative to establishing a permanent *Al Fresco* dining program in the City, Item No. 9 on today's Council Agenda (CF 20-1074), BE AMENDED to instruct all relevant departments -- EWDD, LADOT, DBS, City Planning, DOE and BSS -- to come together and establish a single portal where all applications for temporary-to-permanent transitions of *Al Fresco* permits will be received (including on-street, sidewalk, and private property) and then funneled/transmitted to the relevant departments.

PRESENTED BY:



NITHYA RAMAN
Councilwoman, 4th District

SECONDED BY:



October 20, 2021
ak



ORIGINAL

**BOARD OF PUBLIC WORKS
MEMBERS****GREG GOOD**
PRESIDENT**AURA GARCIA**
VICE PRESIDENT**DR. MICHAEL R. DAVIS**
PRESIDENT PRO TEMPORE**JESSICA M. CALOZA**
COMMISSIONER**M. TERESA VILLEGAS**
COMMISSIONER**DR. FERNANDO CAMPOS**
EXECUTIVE OFFICER**CITY OF LOS ANGELES**

CALIFORNIA

**ERIC GARCETTI**
MAYOR**DEPARTMENT OF
PUBLIC WORKS
BUREAU OF
ENGINEERING****GARY LEE MOORE, PE, ENV SP**
CITY ENGINEER1149 S. BROADWAY, SUITE 700
LOS ANGELES, CA 90015-2213<http://eng.lacity.org>

November 17, 2021

The Honorable Council
Of the City of Los Angeles**COUNCIL FILE 20-1074 EXPEDITIOUSLY TRANSITIONING LA AL FRESCO PROGRAM
PARTICIPANTS INTO PERMANENT SIDEWALK DINING PERMITS**

Dear Honorable Members:

RECOMMENDATIONS

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

BACKGROUND AND DISCUSSION

On November 4, 2020, the City Council adopted a motion under Council File No. 20-1074, directing the Chief Legislative Analyst (CLA), the Los Angeles Department of Transportation (LADOT), and the Bureau of Engineering (BOE), with the assistance of the Bureau of Street Services (StreetsLA), the Department 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 Al Fresco Program that would allow for a streamline 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.

On May 12, 2021, City Council adopted the following recommendations after hearing a CLA report dated March 11, 2021:

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 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 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 subsequent joint report back on item 2 from BOE and LADOT related to sidewalk dining and street dining was submitted to the Council File Management System on September 29, 2021. The report recommended that the R-Permit process continue to be utilized for sidewalk dining approvals. The report also stated that the BOE was analyzing the current Sidewalk Dining Policy to identify potential ways that it could be streamlined, and that recommended changes would be presented to the Board of Public Works for consideration.

On October 20, 2021, the City Council under Council File No. 20-1074 adopted the Transportation Committee Report relative to establishing a permanent LA Al Fresco dining program. The City Council action included the following instructions, among others:

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 Al 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, LADOT, DBS, City Planning, BOE, and BSS – to come together and establish a single portal where all applications for temporary-to-permanent transitions of Al 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.*

Also on October 20, 2021, the Board of Public Works adopted the revisions to the standard Sidewalk Dining Policy, listed as Transmittal 1 in the [Board Package](#). The revisions simplified the sidewalk dining permit process and made it less expensive by lowering the Revocable 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 (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

Implementation of these changes to the standard sidewalk dining policy set the baseline for consideration of further streamlining that may be provided for existing temporary use authorities under the LA AI Fresco program. With the new policy in place, and in response to Recommendation No. 4 from the Council action on October 20, 2021, the BOE is developing recommendations for an automated system that will provide a seamless and straightforward process to transition the approximately 1,600 LA AI Fresco temporary use authorities for sidewalk dining to permanent Revocable permits for all that would like to continue. BOE anticipates presenting those to the Board of Public Works for their consideration in the next few weeks. In parallel, BOE will also work with LADOT to incorporate a streamlined transition of on-street dining authorizations from LA AI Fresco to Revocable permits, and that proposed process will be included in a separate report back to City Council.

We anticipate that the recommended transition process for sidewalk dining will propose to waive many of the normal sidewalk dining requirements, and instead include the standard conditions and rules that apply to the LA AI Fresco program in a Revocable Permit that will be instantly and automatically issued upon application by an existing LA AI Fresco participant. For those terms that are not waived in the streamlined transition, potentially such as the proof of insurance, the waiver of damages, and the payment of Sewerage Facilities Charges (SFCs) as applicable, we anticipate recommending a grace period of six months to submit such items after an automated permit issuance. We propose to report back to City Council with an update on the details of that process after it has been acted on by the Board of Public Works.

The primary reason that this report is being submitted prior to yet knowing the Board of Public Works' determination on the accelerated transition process is related to the fee that would be charged for this automated permit issuance. Currently, the lowest fee that exists for the issuance of a Revocable Permit is the Tier 1 fee of \$556. It is recommended that a new lower fee be considered for Revocable Permits that require significantly less effort than a regular Tier 1 Revocable Permit. Currently, there is an existing hourly fee called a "Special Engineering Fee" that is used to compensate for additional work related to permits. That fee is currently \$149/hour. It is estimated that one hour would be sufficient to process these automated permit issuances and the subsequent required submittals during the grace period.

Therefore, it is recommended that City Council consider requesting that the City Attorney work with BOE to draft an ordinance that would allow the use of the special engineering fee in lieu of the normal Revocable Permit fees in cases where the processing time is three hours or less. Such an ordinance change would also be valuable for simple cases such as ownership changes of Revocable Permits. Tying the fee for Revocable Permits that require minimal processing time to the Special Engineering Fee would be efficient because it would not require an individual fee analysis for periodic adjustments; it would simply change as the Special Engineering Fee is adjusted over the years.

Current LA AI Fresco Revocable Permit Transition Fee	Proposed LA AI Fresco Revocable Permit Transition Fee
\$556 (Tier 1 Fee)	\$149 (1-hr Special Engineering Fee)

Regarding the amended Recommendation No. 9 from the Council action on October 5, 2021, for a single application portal for LA AI Fresco transition applications, it is proposed that a tile be added to the “most popular services” section of the Build LA web page at <https://buildla.lacity.org/> to serve as the single portal with links to two different systems – the BOE Revocable Permit web application for Revocable Permits for sidewalk dining and/or on street dining, and the LADBS system for private property dining. The effort that it would take to combine the BOE and LADBS systems fully would be very time consuming and would not provide a great benefit since the data collected by those systems would be very different. The BOE can import the LA AI Fresco data related to sidewalk and on street dining to our system to minimize the data entry required for those that want to apply to transition those approvals. In cases where an applicant wants to transition both sidewalk dining and on-street dining, that will be able to be done under a single Revocable Permit with the addition of any applicable DOT review fees for the on-street component.

Lastly, regarding Recommendation No. 10, this has been partially addressed in the revisions of the Sidewalk Dining Policy which were adopted by the Board of Public Works on October 20, 2021, by officially allowing Business Improvement Districts to satisfy permit conditions. However, it is not recommended to combine multiple locations into one permit because that will introduce difficulties in managing the permits, such as if some locations close or new ones open. Any change to one location would require revising the entire permit for all locations. It is recommended that with the new streamlined permitting procedures that individual permits would be efficient even when multiple locations are supported by a Business Improvement District.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary Lee Moore". Above the signature is a red digital stamp that says "ENGINEERING" and "Electronically Signed by Gary Lee Moore on 11/17/2021 11:44:25 AM".

for Gary Lee Moore, PE, ENV SP
City Engineer

GLM/TA:jgr

Q:_Ready for Signature\TSA\Report Back for CF 20-1074.docx

cc: Jennifer McDowell, Office of the Mayor
Greg Good, Board of Public Works
Jessica Caloza, Board of Public Works

HOLLY L. WOLCOTT
CITY CLERK

PETTY F. SANTOS
EXECUTIVE OFFICER

City of Los Angeles
CALIFORNIA



ERIC GARCETTI
MAYOR

OFFICE OF THE
CITY CLERK

Council and Public Services Division

200 N. SPRING STREET, ROOM 395
LOS ANGELES, CA 90012
GENERAL INFORMATION - (213) 978-1133
FAX: (213)978-1040

PATRICE Y. LATTIMORE
DIVISION MANAGER

December 7, 2021

CLERK.LACITY.ORG

OFFICIAL ACTION OF THE LOS ANGELES CITY COUNCIL

Council File No.: 20-1074
Council Meeting Date: December 7, 2021
Agenda Item No.: 18
Agenda Description: PUBLIC WORKS COMMITTEE REPORT relative to expeditiously transitioning the Al Fresco dining program participants into permanent sidewalk dining permits.
Council Action: PUBLIC WORKS COMMITTEE REPORT - ADOPTED FORTHWITH

Council Vote:

YES	Blumenfield	YES	Bonin	ABSENT	Buscaino
ABSENT	Cedillo	ABSENT	de León	YES	Harris-Dawson
YES	Koretz	YES	Krekorian	YES	Lee
YES	Martinez	YES	O'Farrell	YES	Price
YES	Raman	ABSENT	Rodriguez		

HOLLY L. WOLCOTT
CITY CLERK

Adopted Report(s) Title
Report from Public Works Committee_11-24-21

TRANSMITTAL NO. 5

PUBLIC WORKS COMMITTEE REPORT relative to expeditiously transitioning the Al Fresco dining program participants into permanent sidewalk dining permits.

Recommendations for Council action:

1. REQUEST the City Attorney to draft an ordinance to enable the Bureau of Engineering (BOE) to utilize the Special Engineering Fee established in LAMC 61.14 to charge for Revocable Permits in cases where the time to process the Revocable Permit would be substantially less than provided in the Tier 1 Revocable Permit fee.
2. DIRECT the BOE to present an automated LA Al Fresco transition process to the Board of Public Works (BPW) for their consideration
3. DIRECT the BOE to report to Council within 30 days of the BPW action to provide an update on the proposed LA Al Fresco transition process.

Fiscal Impact Statement: None submitted by the BOE. Neither the City Administrative Officer nor the Chief Legislative Analyst has completed a financial analysis of this report.

Community Impact Statement: None submitted

(Transportation Committee waived consideration of the above matter)

SUMMARY

At the meeting held on November 24, 2021, your Public Works Committee considered a BOE report relative to expeditiously transitioning the Al Fresco dining program participants into permanent sidewalk dining permits.

After an opportunity for public comment, the Committee moved to approve the BOE’s recommendations, as detailed above. This matter is now forwarded to the Council for its consideration.

Respectfully Submitted,

PUBLIC WORKS COMMITTEE

<u>MEMBER</u>	<u>VOTE</u>
BLUMENFIELD	YES
LEE	YES
DE LEÓN	YES
O’FARRELL	YES
KORETZ	ABSENT

ME 11/24/21

-NOT OFFICIAL UNTIL COUNCIL ACTS-

Item No. 5

MOTION

I HEREBY MOVE that Council ADOPT the recommendations contained in the Planning and Land Use Management Committee report dated March 1, 2022.

PRESENTED BY _____
MARQUEECE HARRIS-DAWSON
Councilmember, 8th District

SECONDED BY _____
MIKE BONIN
Councilmember, 11th District

March 22, 2022

CF 20-1074

TRANSMITTAL NO. 6

PLANNING AND LAND USE MANAGEMENT (PLUM) COMMITTEE REPORT relative to transitioning the LA AI Fresco Program to a permanent program.

Recommendations for Council action:

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 AI Fresco and outdoor dining program.
 - b. INSTRUCT the DCP, in coordination with the LADBS, Los Angeles Fire Department, and City Attorney, to prepare and present a Citywide Ordinance creating a permanent AI Fresco program and generally streamlining outdoor dining provisions throughout the Zoning Code.
 - c. INSTRUCT the DCP and LADBS to report to the Council within 90 days with a status report regarding the development of outdoor dining provisions, including consideration of the following:
 - i. Strategies for managing public parking in high-demand areas.
 - ii. Strategies for the promotion of transit and other modes of transportation to reduce parking demand.
 - iii. Noise issues, including whether different rules should apply depending on whether the outdoor dining is on a side of structure facing residential uses.
 - iv. Alcohol service
 - v. Strategies for streamlining the approval process, such as the Restaurant Beverage Program or creating standard plans or a pre-approved kit of parts for outdoor dining areas.
 - vi. Enforcement of requirements and conditions, including cooperation among the LADBS, BOE, Bureau of Street Services, and Los Angeles Police Department, and including ability to conduct inspections and enforcement during evening and weekend hours.
 - d. INSTRUCT the DCP to:
 - i. Conduct an outreach process to current AI Fresco participants, community stakeholders, and industry representatives, in the preparation of the permanent AI Fresco and outdoor dining Ordinance.
 - ii. Pursue a programmatic coastal development permit for the new regulations within the Coastal Zone.
2. DIRECT the BOE to create a portal for the AI 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).

Fiscal Impact Statement: None submitted by the DCP or LADBS. Neither the City Administrative Officer nor the Chief Legislative Analyst has completed a financial analysis of this report.

Community Impact Statement: None submitted

Summary:

At a regular meeting held on March 1, 2022, the PLUM Committee considered the Joint Report and the Transportation Committee report dated February 1, 2022, relative to transitioning the LA Al Fresco Program to a permanent program. DCP provided an overview of the matter. After providing an opportunity for public comment, the Committee recommended to approve the recommendations contained in the Joint Report and Transportation Committee report as amended, as detailed above. This matter is now submitted to the Council for consideration.

Respectfully Submitted,

PLANNING AND LAND USE MANAGEMENT COMMITTEE

<u>MEMBER</u>	<u>VOTE</u>
HARRIS-DAWSON:	YES
CEDILLO:	YES
BLUMENFIELD:	YES
LEE:	YES
RODRIGUEZ:	YES

CR
20-1074 _rpt_PLUM_03-01-22

-NOT OFFICIAL UNTIL COUNCIL ACTS-


Department of Public Works

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

Bureau of Engineering
Report No. 1

MAY 11 2022

May 11, 2022
CD Nos. All


Executive Officer
Board of Public Works

REVISED POLICY ON SIDEWALK DINING AND AUTOMATED L.A. AI FRESCO TRANSITION PROCESS

RECOMMENDING THE BOARD OF PUBLIC WORKS (BOARD):

1. APPROVE the proposed Board’s policy on sidewalk dining” (Transmittal No. 1) to replace the current policy, which was approved by the Board on October 20, 2021, to remove the requirement for business owners to record the Waiver of Damages on the property deed.
2. AUTHORIZE the Bureau of Engineering (BOE) to create and implement a new automated L.A. AI Fresco transition process to transition from the L.A. AI Fresco Sidewalk Dining Program to the Sidewalk Dining Revocable Permit (R-Permit) and to utilize condition notes on the automated permit to ensure compliance with the Sidewalk Dining Policy.
3. AUTHORIZE 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 (SFC).
4. AUTHORIZE the BOE to use the Special Engineering Fee to charge a lower fee for the automated R-Permits after such lower fee is established by the City Council.

TRANSMITTALS

1. The proposed Board policy on sidewalk dining.
2. City Council Motion (Council File No. 20-1074), adopted forthwith on November 4, 2020.
3. Transportation Committee Report, adopted on May 12, 2021.
4. Joint report back from the BOE and the Los Angeles Department of Transportation (LADOT), dated September 29, 2021.
5. Copy of Ordinance No. 187096, approved on June 28, 2021.
6. Transportation Committee Report, amended and adopted on October 20, 2021.
7. Report back from the BOE, dated November 17, 2021.
8. Public Works Committee Report, adopted on December 7, 2021.
9. Copy of the BOE and the Bureau of Street Services (StreetsLA), Joint Report No. 1, titled “Revised Policy on Sidewalk Dining”, adopted by the Board on October 20, 2021.

TRANSMITTAL NO. 7

DISCUSSION

Background

An 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 BOE 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 L.A. Al 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 L.A. Al 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 L.A. Al 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 Chief Legislative Analyst, the LADOT, and the BOE, with the assistance of the StreetsLA, the Department of Building and Safety (LADBS), the Department of City Planning, the Los Angeles Fire Department (LAFD), and the City Attorney, to report relative to the feasibility of developing a permanent L.A. Al 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. 2).

On May 12, 2021, the City Council adopted the Transportation Committee Report relative to establishing a permanent L.A. Al Fresco dining program (Transmittal No. 3). The City Council action included the following instructions:

1. *Request the City Attorney to report in 60 days on the feasibility of revising the LADOT People Street Program to allow restaurants exclusive use of the public right-of-way.*

May 11, 2022
Page 3

2. *Instruct the BOE, working with the LADOT, to report in 60 days with recommendations to revise the Sidewalk Dining Program and the People Street 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 LADBS, City Planning, and the LAFD, to report in 60 days with recommendations to develop a new category under the Restaurant and Small Business Express Program, 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.*

The subsequent joint report back on Item No. 2 from the BOE and the LADOT related to sidewalk dining and on-street dining was submitted to the Council File Management System on September 29, 2021 (Transmittal No. 4). The report recommended that the R-Permit process continue to be utilized for sidewalk dining approvals.

On June 28, 2021, the Mayor of Los Angeles signed the emergency ordinance, Ordinance No. 187096, which became effective on July 1, 2021, in order to extend several COVID-19 related measures (Transmittal No. 5). Under the ordinance, the L.A. Al Fresco Program was extended for another 12 months, resulting in having the program expiration date be on June 30, 2022.

On October 20, 2021, the City Council adopted the Transportation Committee Report relative to establishing a permanent L.A. Al Fresco Dining Program (Transmittal No. 6). The City Council action included the following instructions, among others:

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 L.A. Al 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 – the Economic and Workforce Development Department (EWDD), LADOT, LADBS, City Planning, BOE, and StreetsLA - to come together and establish a single portal where all applications for temporary-to-permanent transitions of L.A. Al 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 the 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 L.A. Al Fresco Program participants into permanent sidewalk dining permits was submitted to the Council File Management System on November 17, 2021 (Transmittal No. 7). 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 L.A. Al Fresco transition process to the Board for their consideration.
3. Direct the BOE to report back to the City Council within 30 days of the Board action to provide an update on the proposed L.A. Al Fresco transition process.

On December 7, 2021, the City Council adopted the Public Works Committee Report relative to expeditiously transitioning the L.A. Al Fresco Dining Program participants into permanent sidewalk dining permits (Transmittal No. 8). The City Council action included the instructions which were identical to the recommendations in the report back dated November 17, 2021.

Also, on October 20, 2021, the Board adopted the revisions to the standard Sidewalk Dining Policy (Transmittal No. 9). 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.

Automated L.A. Al Fresco Transition Process

With the current Sidewalk Dining Policy in place, and in response to Recommendation No. 4 from the City Council action on October 20, 2021, the BOE is proposing an automated system that will provide a seamless and straightforward process to transition from the L.A. Al Fresco Sidewalk Dining Program to the Sidewalk Dining R-Permits. In parallel, the BOE will also work with the LADOT to incorporate a streamlined transition of on-street dining authorizations from L.A. Al Fresco to R-Permits. The proposed automation of on-street dining will be presented in a separate future board report.

As part of the plan to transition from the L.A. Al Fresco Sidewalk Dining Program to the Sidewalk Dining R-Permit, the BOE is recommending to waive all of the normal sidewalk dining policy requirements except for the SFC, Waiver of Damages, and proof of liability insurance, and to instead replace them with the terms of the current L.A. Al Fresco Sidewalk Dining terms which are very similar. All of the standard conditions and rules that apply to the L.A. Al Fresco Sidewalk Dining Program are proposed to be automatically transferred to the Sidewalk Dining R-Permit conditions which would be automatically issued to L.A. Al Fresco participants that submit an application and pay the application fee with the condition that they comply with the SFC, Waiver of Damages, and liability insurance requirements within six months.

As stated above, on December 7, 2021, the City Council adopted the Council Action to 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 provided in the Tier 1 R-Permit fee. Currently, the lowest fee that exists for the issuance of a R-Permit is the Tier 1 fee of \$556. It is recommended that, if adopted by the City Council, the Special Engineering fee be utilized for the automated Sidewalk Dining R-Permits that will require significantly less review than a regular Tier 1 R-Permit. Presently, the Special Engineering fee is used to recover the cost of staff to provide additional review of BOE permits. The Special Engineering fee is currently \$149 per hour. It is estimated that one hour would be sufficient to process the automated permits, including the review of the SFC, Waiver of Damages, and liability insurance required within the six-month grace period. As explained in the report back on November 17, 2021, such an ordinance change would also be valuable for simple cases such as ownership changes of R-Permits. Tying the fee for R-Permits that require minimal processing time to the Special Engineering fee would be efficient because it would not require an individual fee analysis for periodic adjustments; it would simply change as the Special Engineering fee is adjusted over the years. BOE staff have met with the City Attorney and the subject ordinance is in the process of being drafted and reviewed.

Current L.A. Al Fresco R-Permit Transition Fee	Proposed L.A. Al Fresco R-Permit Transition Fee
\$556 (Tier 1 Fee)	\$149 (1-hour Special Engineering Fee)

Regarding the Transportation Committee Report adopted on October 20, 2021, amended Recommendation No. 9 instructing City departments to implement a single application portal for L.A. Al Fresco transition applications, it is proposed that a tile be added to the “most popular services” section of the Build LA web page at <https://buildla.lacity.org> to serve as the single portal with links to two different systems - the BOE R-Permit web application for R-Permits for sidewalk dining and/or on-street dining, and the LADBS system for private property dining. The effort that it would take to combine the BOE and the LADBS systems fully would be very time consuming and would not provide a great benefit since the data collected by those systems would be very different. The BOE can import the L.A. Al Fresco data related to sidewalk and on-street dining to our system to minimize the data entry required for those that want to apply to transition those approvals. In cases where an applicant wants to transition both sidewalk dining and on-street dining, that will be able to be done under a single R-Permit with the addition of any applicable LADOT review fees for the on-street component.

Lastly, regarding Recommendation No. 10, this has been partially addressed in the revisions of the Sidewalk Dining Policy which were adopted by the Board on October 20, 2021, by officially allowing Business Improvement Districts to satisfy permit conditions. However, we will continue to evaluate whether there is a feasible way to combine multiple locations into one permit and report back on that in the future.

Sidewalk Dining Policy

After the revised Sidewalk Dining Policy was adopted by the Board on October 20, 2021, additional considerations have been discussed. A Waiver of Damages must generally be signed by an entity with signatory authority, notarized by a notary public, and submitted to the BOE for review. In addition to that, if it is signed by the property owner or on behalf of the property owner, it is required to be recorded with the Los Angeles County Recorder’s Office. Since a change in the permit ownership generally triggers a new R-Permit application for sidewalk dining, the new property owner would need to apply for a new R-Permit and submit a new Waiver of Damages anyway. Considering these factors, requiring the property owner to record the Waiver of Damages with the Los Angeles County Recorder’s Office may not provide significant value as compared to the time and effort to establish the recording and later to release the recording when no longer applicable. Therefore, the BOE is proposing to remove the recordation requirement for the Waiver of Damages in the Sidewalk Dining Policy. Removing this recordation requirement will also save time and cost for the L.A. Al Fresco participants when they transition to the R-Permits.

The implementation of the proposed automated L.A. Al Fresco transition process and the above changes to the current Board policy on sidewalk dining should expeditiously transition the existing L.A. Al Fresco program participants to Sidewalk Dining R-Permits.

Department of Public Works
Bureau of Engineering
Report No. 1

May 11, 2022
Page 7

(WT RMK TA)

Report reviewed by:

BOE (ADM)

Report prepared by:

Central District

Wesley Tanijiri, PE
District Engineer
Phone No.: (213) 482-7049

WT/TS/03-2022-0036.CEN.gva

Questions regarding this
report may be referred to:
Tanat Satidkit, PE, Civil Engineer
Phone No.: (213) 482-7471
E-mail: tanat.satidkit@lacity.org

Respectfully submitted,



Gary Lee Moore, PE, ENV SP
City Engineer

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

TRANSMITTAL NO. 1

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; and submitted to the BOE for review.

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.

MOTION

I HEREBY MOVE that Council AMEND the Transportation Committee report relative to developing a permanent AI 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 AI Fresco program.

PRESENTED BY: _____

JOE BUSCAINO

Councilmember, 15th District

SECONDED BY: _____

MIKE BONIN

Councilmember, 11th District

November 4, 2020

TRANSMITTAL NO. 2

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>
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BONIN:	YES
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BUSCAINO:	YES
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KORETZ:	YES
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jaw

-NSOSFFT TALNOTAI SLNI TACI OU-

HOLLY L. WOLCOTT
CITY CLERK

PETTY F. SANTOS
EXECUTIVE OFFICER

City of Los Angeles
CALIFORNIA



ERIC GARCETTI
MAYOR

OFFICE OF THE
CITY CLERK

Council and Public Services Division

200 N. SPRING STREET, ROOM 395
LOS ANGELES, CA 90012
GENERAL INFORMATION - (213) 978-1133
FAX: (213)978-1040

PATRICE Y. LATTIMORE
DIVISION MANAGER

May 12, 2021

CLERK.LACITY.ORG

OFFICIAL ACTION OF THE LOS ANGELES CITY COUNCIL

Council File No.: 20-1074
Council Meeting Date: May 12, 2021
Agenda Item No.: 10
Agenda Description: TRANSPORTATION COMMITTEE REPORT relative to establishing a permanent AI Fresco Program in the City of Los Angeles.
Council Action: TRANSPORTATION COMMITTEE REPORT - ADOPTED FORTHWITH

Council Vote:

YES	Blumenfield	YES	Bonin	YES	Buscaino
YES	Cedillo	YES	de León	YES	Harris-Dawson
YES	Koretz	YES	Krekorian	YES	Lee
YES	Martinez	YES	O'Farrell	ABSENT	Price
YES	Raman	YES	Ridley-Thomas	YES	Rodriguez

HOLLY L. WOLCOTT
CITY CLERK

Adopted Report(s) Title
20-1074_rpt_tran_7-29-21

TRANSMITTAL NO. 3

TRANSPORTATION COMMITTEE REPORT relative to establishing a permanent AI Fresco Program in the City of Los Angeles.

Recommendations for Council action:

1. REQUEST the City Attorney to report in 60 days on the feasibility of revising the Los Angeles Department of Transportation (LADOT) People St. Program to allow restaurants exclusive use of the public right-of-way.
2. INSTRUCT the Bureau of Engineering, working with the LADOT, to report in 60 days with recommendations to revise the Sidewalk Dining Program and the People St. Program, as appropriate, to expeditiously transition all existing L.A. 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.
3. INSTRUCT the Departments of Building and Safety and City Planning, and the Los Angeles Fire Department, to report in 60 days with recommendations to develop a new category under the Restaurant and Small Business Express Program, or another appropriate regulatory framework, for outdoor dining on private property that is operating under the L.A. AI 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.

Fiscal Impact Statement: None submitted by the Chief Legislative Analyst (CLA) or the City Administrative Officer.

Community Impact Statement: Yes

For: Wilshire Center Koreatown Neighborhood Council
Los Feliz Neighborhood Council

SUMMARY

In a report to Council dated March 11, 2021, the CLA discusses the status of the L.A. AI Fresco Program. The CLA identifies areas requiring further analysis, and refines Council instructions in order to accommodate a short- and long-term permanent outdoor dining program.

The CLA reports that the L.A. AI Fresco Program has provided an opportunity to reimagine the use of outdoor space for food service and dining. Ongoing discussions regarding how the City can emerge post-Pandemic include consideration of how to continue to support restaurant businesses through outdoor dining options. According to the CLA, the L.A. AI Fresco Pilot Program did more than 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.

The CLA believes there are a number of practical and technical issues that must be addressed by the respective oversight department. The report recommends that Council instruct various departments to report back on how to establish a permanent L.A. Al Fresco Program.

At its meeting held April 20, 2021, the Transportation Committee discussed this matter with representatives of the CLA and LADOT. The CLA representative praised the program, touting how quickly it was launched. LADOT staff stated approximately 2,800 restaurants are participating in the program. In support of the program, the City has closed street lanes and restricted curbside parking. The Department intends to assess the impact of the program on parking meter revenue. Committee members praised the program and recommended that Council approve the CLA's recommendations, as amended to set a deadline of 60 days for the requested reports.

<u>MEMBER</u>	<u>VOTE</u>
BONIN:	YES
KORETZ:	YES
BUSCAINO:	YES

jaw

Respectfully Submitted,

TRANSPORTATION COMMITTEE





- NOT OFFICIAL UNTIL COUNCIL ACTS -

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. 4

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

ORDINANCE NO. 187096

An ordinance amending Article 6 of Chapter I of the Los Angeles Municipal Code to provide regulatory relief from certain zoning and land use requirements during a local emergency.

WHEREAS, the City Council of the City of Los Angeles (City Council) recognizes the significant public health and economic impacts of the novel Coronavirus pandemic (pandemic) on the City of Los Angeles (City), and further appreciates the need to facilitate temporary zoning code relief to support the local economy and livelihood of those living and working in the City;

WHEREAS, the City Council further recognizes the uncertainty surrounding the current local emergency, a result of the pandemic, and the risk of subsequent local emergencies to unduly impact the local economy and employment necessitates temporary regulations;

WHEREAS, during the current pandemic and local emergency the City Council has undertaken extraordinary measures to support residents, tenants, business owners, and property owners Citywide;

WHEREAS, the City Council desires to provide regulatory relief during declared local emergencies that allows for reductions in parking requirements and extensions of time for the utilization of certain land use entitlements;

WHEREAS, the City Council intends for the relief to provide needed flexibility for businesses and projects by extending time limits for approvals and providing targeted parking relief for small scale projects, thereby allowing local proprietors to achieve cost savings while furthering the environmental and mobility goals of the General Plan;

WHEREAS, the City Council aims for this relief to support the vitality and viability of its commercial corridors and districts that support the employment of local residents and contribute to the overall health of the local economy and generally improve the public welfare of the City; and

WHEREAS, the Council has determined that the provisions of this ordinance are consistent with and implements the goals and objectives of the City's General Plan.

NOW THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. The title of Article 6 of Chapter I of the Los Angeles Municipal Code is renamed as follows:

TRANSMITTAL NO. 5

ARTICLE 6

LOCAL EMERGENCY TEMPORARY REGULATIONS

Sec. 2. The table of contents for Article 6 of Chapter I of the Los Angeles Municipal Code is amended to include a new Section 16.02.1 as follows:

Section

- 16.00 Declaration of Purpose.
- 16.01 Long-term Temporary Uses.
- 16.02 Special Provisions for Other Land Use Proceedings.
- 16.02.1 Relief from Specified Land Use Provisions.
- 16.03 Restoration of Damaged or Destroyed Buildings.
- 16.04 Critical Response Facilities.
- 16.04.1 Short-term Temporary Uses.
- 16.04.2 Activation and Termination of Effect.

Sec. 3. A new Section 16.02.1 is added to Article 6 of Chapter I of the Los Angeles Municipal Code to read as follows:

SEC. 16.02.1. RELIEF FROM SPECIFIED LAND USE PROVISIONS.

A. The provisions of this section may be invoked upon the adoption of a City Council resolution following the Mayor's declaration of emergency pursuant to local and state law, and upon the filing of an application on a form provided by the Department of City Planning and the payment of a fee, provided the resolution does not conflict with any Mayoral orders issued in relation to the declared emergency. The provisions of this section do not supersede state law or the Mayor's authority under the Charter and Los Angeles Administrative Code.

B. Effective Dates. Notwithstanding any other provisions of this article to the contrary, the provisions of this section shall automatically terminate 12 months after the expiration or termination date of the relevant emergency declaration, or upon City Council's action by resolution to terminate the provisions of this section earlier than that date. However, the City Council may, by resolution, extend the provisions of this section for up to an additional 24 months, thereby allowing the provisions to apply for a total of 36 months after the termination or expiration of the local emergency order. The City Council retains the discretion to terminate these provisions by resolution at any time after the expiration or termination of the local emergency order.

C. Time Limit Extension.

1. **Extension of Time Limitations.** Notwithstanding the expiration periods set forth in Section 12.25 of this Code, the expiration of a conditional use or other quasi-judicial approval(s) that was either approved or valid during the application of these provisions, shall be calculated by adding the term of the local

emergency, plus up to an additional 12 months when the criteria in Section 16.02.1 D.3 of this Code are met, to the term prescribed in Section 12.25 A.1. This extension does not confer a vested right, unless a Vesting Conditional Use was applied for and granted pursuant to Section 12.24 T.

(a) **Multiple Approvals.** Notwithstanding the expiration periods defined in Sections 12.36 of this Code, if an eligible conditional use or other quasi-judicial approval is part of a project that has multiple approvals and is subject to the expiration period set forth in Section 12.36 of this Code, then the expiration period set forth in Section 12.36 G.1 is extended by a term equivalent to the time period of the local emergency, plus up to an additional 12 months from the expiration of the local emergency for all approvals concurrently granted.

(b) **Exception.** The uses listed in Section 16.02.1 D.3(a) shall not be granted an extension, regardless of whether said use was approved concurrently with an eligible approval.

2. **Extension of Term-Limited Grants.** Notwithstanding any condition of approval that specifies an expiration date or term limit for a conditional use or other quasi-judicial approval(s), where the expiration date occurs during the local emergency that expiration date is automatically extended for the term of the local emergency, plus up to an additional 12 months when the criteria in Section 16.02.1 D.3 are met.

(a) **Multiple Approvals.** Notwithstanding any other provision of this Code to the contrary, if an eligible conditional use or other quasi-judicial approval is part of a project that has multiple approvals and any of the approvals include a condition with a separate expiration date or term limit, said expiration date shall be extended concurrently with the eligible approval.

(b) **Exception.** The uses listed in Section 16.02.1 D.3.(a) shall not be granted an extension regardless of whether said use was approved concurrently with an eligible approval.

3. **Eligibility.**

(a) Only a conditional use or quasi-judicial approval listed in Section 12.24 is eligible for the time extension.

Exception. No conditional use or other quasi-judicial approval related to fossil fuel extraction, fossil fuel production, fossil fuel storage, or hazardous waste facilities is eligible for the time extension within this section. This includes, but is not limited to, the following:

Section 12.24 U.10. Hazardous waste facilities in M2 and M3 zones.

Section 12.24 U.11. Hazardous waste facilities in M3 zones.

Section 12.24 U.17. Natural resources development.

Section 12.24 U.18. Onshore installations required in connection with the drilling for or production of oil, gas or hydrocarbons, under specified conditions.

Section 12.24 U.29. Petroleum-Based Oil Refineries.

Section 12.24 W.47. Temporary geological exploratory core holes in all zones except the M3 Zone, under specified conditions.

(b) **Revocation.** Businesses or properties that are or have been the subject of revocation proceedings that resulted in corrective conditions or revocation are not eligible for a time extension.

(c) **Application.** In order to benefit from the relief provided by these provisions, an application to verify eligibility shall be filed and a fee paid, in accordance with procedures set forth by the Department of City Planning.

(d) **Original Approval.** The Director or designee shall verify that the prior discretionary approval and existing environmental documentation under the California Environmental Quality Act is adequate for the issuance of the extension.

(e) **Notification.** The applicant shall notify, in accordance with the procedures set forth by the Department of City Planning, the Los Angeles Police Department, the Department of Building and Safety, and the City Councilmember whose district includes any portion of the property as part of the application process for the extension of the time limits.

D. AUTOMOBILE PARKING RELIEF

1. **Changes of Use.** Notwithstanding Section 12.21 A.4, 12.23 B.8.(b), or any other Code section, ordinance, or specific plan to the contrary, when plans are submitted and accepted by the Department of Building and Safety for a change of use during an emergency declaration and after the adoption of a resolution by City Council invoking the provisions of this section, the change of use shall not trigger increased automobile parking beyond that required by the existing approved use if all the following requirements are met:

(a) **Requirements.**

(1) The change of use is limited to a nonresidential use allowable pursuant to the zoning applicable to the property's location.

(2) The building wherein the change of use is occurring has one of the following: a valid certificate of occupancy; temporary certificate of occupancy; or a building permit if the building predates the certificate of occupancy requirement. The aforementioned documents must have been issued prior to the declaration of the local emergency related to the City Council's resolution invoking this section.

(3) The automobile parking relief only applies to the first 5,000 square feet of Floor Area for any tenant space. Any Floor Area in excess of 5,000 square feet for said tenant space shall conform to the automobile parking requirements in LAMC Section 12.21 A.4, Section 12.23 B.8.(b), and any applicable Specific Plan, inclusive of any aggregate Floor Area, including Floor Area sectioned from a separate tenant space that may have been previously eligible or approved for the automobile parking reduction enumerated within this subdivision.

(4) Any additions to the building occurring during the invocation of this section by City Council resolution, and which result in an increase of Floor Area are limited to the area within the existing walls and existing roofline of the building, and do not include any outdoor space.

(5) No net loss of guest rooms and/or dwelling units result from the change of use.

Consistency. The relief provided in this subdivision is limited to the provisions enumerated herein, and any project for which relief is sought shall otherwise be consistent with this Code and the General Plan.

2. **Outdoor Eating Areas.** Notwithstanding any provisions of this Code or any Zoning Administrator interpretations of this Code to the contrary, any new or expanded Outdoor Eating Area shall not require any automobile parking, and the maintenance of existing automobile parking shall not be required for any portion of the parking lot utilized for an approved Outdoor Eating Area during the period that these provisions are invoked, pursuant to this section if the following requirements are met:

(a) **Eligibility.** Only permitted establishments with verifiable indoor seating for on-premise dining are eligible for the relief provided within this subdivision.

(b) **Consistency.** The relief provided in this subdivision is limited to the automobile parking provisions enumerated herein, and the project shall otherwise be consistent with this Code and the General Plan.

(c) **Termination.** Whenever the provisions of this section cease to apply, the automobile parking requirements that existed prior to the declaration of the local emergency shall be met, and any Outdoor Eating Areas shall comply with this Code and any applicable Specific Plan, notwithstanding this Section.

3. **Conditions of Approval.** Notwithstanding any provisions of this Code, ordinance, or Specific Plan to the contrary, any condition of approval that requires valet automobile parking or off-site automobile parking is suspended and shall not be enforced during the period when these provisions are invoked, if all the following requirements are met:

(a) **Eligibility.** Only the following grants are eligible for relief, and only if they were approved or active during the period that these provisions are invoked.

Section 11.5.7 E. Project Permit Adjustments.

Section 11.5.7 F. Exceptions from Specific Plans.

Section. 12.24. Conditional Use Permits and Other Similar Quasi-Judicial Approvals. Inclusive of the entire Section.

Section 12.27. Variances.

Section 12.28. Adjustments and Slight Modifications.

Section 12.32. Land Use Legislative Actions.

(b) **Existing Covenant.** The suspension of enforcement activity as a result of the invocation of the provisions of this section shall not be construed to terminate or void any recorded covenant documenting valet or off-site parking requirements.

(c) **Termination.** Whenever the provisions of this section cease to apply, all conditions of approval and associated covenants shall be enforced and, if the conditions were never met, the applicant shall provide verification to the Department of City Planning, in accordance with

procedures set forth by the Department of City Planning, within 90 days of the termination of the provisions of this section.

Sec. 4. Section 16.04.2 of Article 6, Chapter I, of the Los Angeles Municipal Code is amended in its entirety to read as follows:

The provisions of this article shall be applicable to a particular area upon the declaration of an emergency by the Governor relating to that area, pursuant to state law. The provisions of this article shall cease to be applicable to a particular area two years following the date of declaration of emergency, and for one additional year if an extension is approved by the City Council, provided, however, that the provisions of this article shall be considered as still remaining in full force and effect thereafter for the purpose of maintaining or defending any civil or criminal proceeding with respect to any right, liability or offense that may have arisen under the provisions of this article during its operative period, or with respect to enforcing any condition of approval of the temporary land use permit. The City Council may also extend by resolution any other time limits in this article for one additional year. Notwithstanding the provisions within this section to the contrary, the provisions in Section 16.02.1 shall only be activated by following the procedure outlined in Section 16.02.1 B.

Sec. 5. **SEVERABILITY.** If any portion, subsection, sentence, clause or phrase of this article is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this article. The City Council hereby declares that it would have passed this article and each portion or subsection, sentence, clause and phrase herein, irrespective of the fact that any one or more portions, subsections, sentences, clauses or phrases be declared invalid.

Sec. 6. **URGENCY.** The City finds that the continued application of certain conditional use permit and parking requirements during a local emergency will be injurious to the economic recovery resulting from said emergency. Economic uncertainty and devastation poses a threat to the health, safety, and general welfare of the City. The ongoing novel Coronavirus pandemic has brought an unprecedented amount of uncertainty to the City both in terms of public health and economic recovery, and immediate action is necessary to stem the continuing loss in business ownership and employment during these unprecedented times. The immediate enactment of these provisions will assist in minimizing permanent loss of employment, permanent closure of businesses, loss of redevelopment potential, curtailment of City revenues and subsequent curtailment of vital services, and the negative consequences for quality of life, health, safety, and public welfare during a severe economic slowdown and delayed economic recovery. For all of these reasons, this ordinance shall become effective upon publication pursuant to Section 253 of the Los Angeles City Charter.

Sec. 7. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
ADRIENNE S. KHORASANEE
Deputy City Attorney

Date 5/13/21

File No. 20-0380-S1

Pursuant to Charter Section 559, I **approve** this ordinance on behalf of the City Planning Commission and recommend that it be adopted.

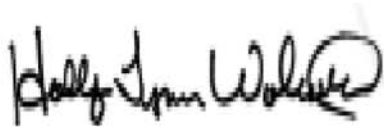

VINCENT P. BERTONI, AICP
Director of Planning

Date 5/12/21

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The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than three-fourths** of all its members.

CITY CLERK



Ordinance Passed June 23, 2021

MAYOR



Approved 06/28/2021

Published Date: 07-01-21
Ordinance Effective Date: 07-01-21

HOLLY L. WOLCOTT
CITY CLERK

PETTY F. SANTOS
EXECUTIVE OFFICER

City of Los Angeles
CALIFORNIA



ERIC GARCETTI
MAYOR

OFFICE OF THE
CITY CLERK

Council and Public Services Division

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FAX: (213)978-1040

PATRICE Y. LATTIMORE
DIVISION MANAGER

October 20, 2021

CLERK.LACITY.ORG

OFFICIAL ACTION OF THE LOS ANGELES CITY COUNCIL

Council File No.: 20-1074
Council Meeting Date: October 20, 2021
Agenda Item No.: 9
Agenda Description: TRANSPORTATION COMMITTEE REPORT relative to establishing a permanent Al Fresco dining program in the City of Los Angeles.
Council Action: TRANSPORTATION COMMITTEE REPORT - ADOPTED AS AMENDED BY MOTION (RAMAN – RODRIGUEZ) FORTHWITH

Council Vote:

YES	Blumenfield	YES	Bonin	YES	Buscaino
YES	Cedillo	YES	de León	YES	Harris-Dawson
YES	Koretz	YES	Krekorian	YES	Lee
YES	Martinez	YES	O'Farrell	YES	Price
YES	Raman	ABSENT	Ridley-Thomas	YES	Rodriguez

HOLLY L. WOLCOTT
CITY CLERK

Adopted Report(s) Title
Amending Motion (Raman-Rodriguez) 10-20-21
Report from the Transportation Committee - 10-5-21

TRANSMITTAL NO. 6

TRANSPORTATION COMMITTEE REPORT relative to establishing a permanent *Al Fresco* dining program in the City of Los Angeles.

Recommendations for Council action:

1. REQUEST the City Attorney, with the assistance of the Los Angeles Department of Transportation (LADOT), to prepare and present an Ordinance to establish application fees for on-street dining.
2. DIRECT the LADOT to report back on the application fees collected for Fiscal Year (FY) 2021-22; and, AUTHORIZE the LADOT to seek Council approval to set up an appropriation account within LADOT Trust Fund No. 840 based on the expenditure plan for the fees collected.
3. DIRECT the 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 FY 2022 budget.
4. DIRECT the Bureau of Engineering (BOE) to report in 30 days with recommendations to revise the Sidewalk Dining Program and R-Permit process 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 outreach to participating businesses to determine their interest and an assessment of whether the revised program will accommodate their locations.
5. DIRECT the Los Angeles Department of Building and Safety (LADBS) and Department of City Planning, with support from the Los Angeles Fire Department, to report back in 30 days with recommendations to change the applicable regulations and permit procedures to expeditiously make this transition.
6. DIRECT the CAO, in consultation with relevant departments, to report with recommended fees to exempt existing program participants, and minimize the overall cost of permitting and to balance our cost recovery needs with the economic development and neighborhood revitalization objectives.
7. INSTRUCT the LADOT to waive any parking meter related fees, as detailed in the subject joint LADOT and BOE report, in the permanent L.A. Al Fresco Program.
8. INSTRUCT the LADOT to report back on the feasibility of establishing an ongoing Al Fresco dining business support-fund to help offset costs.

9. INSTRUCT the Economic and Workforce Development Department to report back on the development of an Al Fresco dining business resource program made available online in multiple languages as well as through the City's business resource centers.
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.

Fiscal Impact Statement: Neither the CAO nor the Chief Legislative Analyst has completed a financial analysis of this report.

Community Impact Statement: None submitted.

SUMMARY:

At a regular meeting held on October 5, 2021, the Transportation Committee considered a joint report from the LADOT and BOE relative to establishing a permanent L.A. Al Fresco dining program in the City.

During the discussion representatives from the LADOT, BOE and LADBS provided an overview of the matter and answered key questions from the Committee members. The Committee Chair offered amendments fine-tuning the Department's report backs. The Chair's amendments were complemented by additional amendments from Councilmember Buscaino.

Councilmember Koretz emphasized the success that outdoor dining has had throughout the City, and how this option has been critical in saving some of the restaurants during the pandemic. At the same time, the Councilmember reminded the Committee of the importance of hearing from other businesses since the loss of parking may negatively impact other businesses, and it will be important to mitigate those issues as things move forward.

After providing an opportunity for public comment, the Committee recommended to adopt the joint LADOT and BOE recommendations as amended, as detailed in Recommendations No. 4 through No. 10.

This matter is now submitted to the Council for consideration.

Respectfully submitted,

TRANSPORTATION COMMITTEE

MEMBER
BONIN:
KORETZ:
BUSCAINO:

VOTE
YES
YES
YES

LC 10/05/21

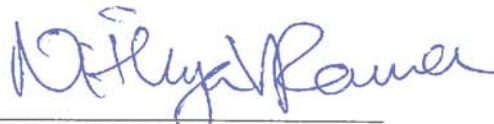
-NOT OFFICIAL UNTIL COUNCIL ACTS-

ITEM No. 9 - A

M O T I O N

I MOVE that the matter of the Transportation Committee Report relative to establishing a permanent *Al Fresco* dining program in the City, Item No. 9 on today's Council Agenda (CF 20-1074), BE AMENDED to instruct all relevant departments -- EWDD, LADOT, DBS, City Planning, DOE and BSS -- to come together and establish a single portal where all applications for temporary-to-permanent transitions of *Al Fresco* permits will be received (including on-street, sidewalk, and private property) and then funneled/transmitted to the relevant departments.

PRESENTED BY:



NITHYA RAMAN
Councilwoman, 4th District

SECONDED BY:



October 20, 2021
ak



ORIGINAL

**BOARD OF PUBLIC WORKS
MEMBERS**

GREG GOOD
PRESIDENT

AURA GARCIA
VICE PRESIDENT

DR. MICHAEL R. DAVIS
PRESIDENT PRO TEMPORE

JESSICA M. CALOZA
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M. TERESA VILLEGAS
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DR. FERNANDO CAMPOS
EXECUTIVE OFFICER

CITY OF LOS ANGELES

CALIFORNIA



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>

November 17, 2021

The Honorable Council
Of the City of Los Angeles

COUNCIL FILE 20-1074 EXPEDITIOUSLY TRANSITIONING LA AL FRESCO PROGRAM PARTICIPANTS INTO PERMANENT SIDEWALK DINING PERMITS

Dear Honorable Members:

RECOMMENDATIONS

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

BACKGROUND AND DISCUSSION

On November 4, 2020, the City Council adopted a motion under Council File No. 20-1074, directing the Chief Legislative Analyst (CLA), the Los Angeles Department of Transportation (LADOT), and the Bureau of Engineering (BOE), with the assistance of the Bureau of Street Services (StreetsLA), the Department 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 Al Fresco Program that would allow for a streamline 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.

On May 12, 2021, City Council adopted the following recommendations after hearing a CLA report dated March 11, 2021:

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 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 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 subsequent joint report back on item 2 from BOE and LADOT related to sidewalk dining and street dining was submitted to the Council File Management System on September 29, 2021. The report recommended that the R-Permit process continue to be utilized for sidewalk dining approvals. The report also stated that the BOE was analyzing the current Sidewalk Dining Policy to identify potential ways that it could be streamlined, and that recommended changes would be presented to the Board of Public Works for consideration.

On October 20, 2021, the City Council under Council File No. 20-1074 adopted the Transportation Committee Report relative to establishing a permanent LA Al Fresco dining program. The City Council action included the following instructions, among others:

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 Al 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, LADOT, DBS, City Planning, BOE, and BSS – to come together and establish a single portal where all applications for temporary-to-permanent transitions of Al 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.*

Also on October 20, 2021, the Board of Public Works adopted the revisions to the standard Sidewalk Dining Policy, listed as Transmittal 1 in the [Board Package](#). The revisions simplified the sidewalk dining permit process and made it less expensive by lowering the Revocable 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 (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

Implementation of these changes to the standard sidewalk dining policy set the baseline for consideration of further streamlining that may be provided for existing temporary use authorities under the LA AI Fresco program. With the new policy in place, and in response to Recommendation No. 4 from the Council action on October 20, 2021, the BOE is developing recommendations for an automated system that will provide a seamless and straightforward process to transition the approximately 1,600 LA AI Fresco temporary use authorities for sidewalk dining to permanent Revocable permits for all that would like to continue. BOE anticipates presenting those to the Board of Public Works for their consideration in the next few weeks. In parallel, BOE will also work with LADOT to incorporate a streamlined transition of on-street dining authorizations from LA AI Fresco to Revocable permits, and that proposed process will be included in a separate report back to City Council.

We anticipate that the recommended transition process for sidewalk dining will propose to waive many of the normal sidewalk dining requirements, and instead include the standard conditions and rules that apply to the LA AI Fresco program in a Revocable Permit that will be instantly and automatically issued upon application by an existing LA AI Fresco participant. For those terms that are not waived in the streamlined transition, potentially such as the proof of insurance, the waiver of damages, and the payment of Sewerage Facilities Charges (SFCs) as applicable, we anticipate recommending a grace period of six months to submit such items after an automated permit issuance. We propose to report back to City Council with an update on the details of that process after it has been acted on by the Board of Public Works.

The primary reason that this report is being submitted prior to yet knowing the Board of Public Works' determination on the accelerated transition process is related to the fee that would be charged for this automated permit issuance. Currently, the lowest fee that exists for the issuance of a Revocable Permit is the Tier 1 fee of \$556. It is recommended that a new lower fee be considered for Revocable Permits that require significantly less effort than a regular Tier 1 Revocable Permit. Currently, there is an existing hourly fee called a "Special Engineering Fee" that is used to compensate for additional work related to permits. That fee is currently \$149/hour. It is estimated that one hour would be sufficient to process these automated permit issuances and the subsequent required submittals during the grace period.

Therefore, it is recommended that City Council consider requesting that the City Attorney work with BOE to draft an ordinance that would allow the use of the special engineering fee in lieu of the normal Revocable Permit fees in cases where the processing time is three hours or less. Such an ordinance change would also be valuable for simple cases such as ownership changes of Revocable Permits. Tying the fee for Revocable Permits that require minimal processing time to the Special Engineering Fee would be efficient because it would not require an individual fee analysis for periodic adjustments; it would simply change as the Special Engineering Fee is adjusted over the years.

Current LA AI Fresco Revocable Permit Transition Fee	Proposed LA AI Fresco Revocable Permit Transition Fee
\$556 (Tier 1 Fee)	\$149 (1-hr Special Engineering Fee)

Regarding the amended Recommendation No. 9 from the Council action on October 5, 2021, for a single application portal for LA AI Fresco transition applications, it is proposed that a tile be added to the “most popular services” section of the Build LA web page at <https://buildla.lacity.org/> to serve as the single portal with links to two different systems – the BOE Revocable Permit web application for Revocable Permits for sidewalk dining and/or on street dining, and the LADBS system for private property dining. The effort that it would take to combine the BOE and LADBS systems fully would be very time consuming and would not provide a great benefit since the data collected by those systems would be very different. The BOE can import the LA AI Fresco data related to sidewalk and on street dining to our system to minimize the data entry required for those that want to apply to transition those approvals. In cases where an applicant wants to transition both sidewalk dining and on-street dining, that will be able to be done under a single Revocable Permit with the addition of any applicable DOT review fees for the on-street component.

Lastly, regarding Recommendation No. 10, this has been partially addressed in the revisions of the Sidewalk Dining Policy which were adopted by the Board of Public Works on October 20, 2021, by officially allowing Business Improvement Districts to satisfy permit conditions. However, it is not recommended to combine multiple locations into one permit because that will introduce difficulties in managing the permits, such as if some locations close or new ones open. Any change to one location would require revising the entire permit for all locations. It is recommended that with the new streamlined permitting procedures that individual permits would be efficient even when multiple locations are supported by a Business Improvement District.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary Moore". Above the signature is a red digital stamp that reads "ENGINEERING" and "Electronically Signed by Gary Lee Moore on 11/17/2021 11:44:25 AM".

for Gary Lee Moore, PE, ENV SP
City Engineer

GLM/TA:jgr

Q:_Ready for Signature\TSA\Report Back for CF 20-1074.docx

cc: Jennifer McDowell, Office of the Mayor
Greg Good, Board of Public Works
Jessica Caloza, Board of Public Works

HOLLY L. WOLCOTT
CITY CLERK

PETTY F. SANTOS
EXECUTIVE OFFICER

City of Los Angeles
CALIFORNIA



ERIC GARCETTI
MAYOR

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PATRICE Y. LATTIMORE
DIVISION MANAGER

December 7, 2021

CLERK.LACITY.ORG

OFFICIAL ACTION OF THE LOS ANGELES CITY COUNCIL

Council File No.: 20-1074
Council Meeting Date: December 7, 2021
Agenda Item No.: 18
Agenda Description: PUBLIC WORKS COMMITTEE REPORT relative to expeditiously transitioning the Al Fresco dining program participants into permanent sidewalk dining permits.
Council Action: PUBLIC WORKS COMMITTEE REPORT - ADOPTED FORTHWITH

Council Vote:

YES	Blumenfield	YES	Bonin	ABSENT	Buscaino
ABSENT	Cedillo	ABSENT	de León	YES	Harris-Dawson
YES	Koretz	YES	Krekorian	YES	Lee
YES	Martinez	YES	O'Farrell	YES	Price
YES	Raman	ABSENT	Rodriguez		

HOLLY L. WOLCOTT
CITY CLERK

Adopted Report(s) Title
Report from Public Works Committee_11-24-21

TRANSMITTAL NO. 8

PUBLIC WORKS COMMITTEE REPORT relative to expeditiously transitioning the Al Fresco dining program participants into permanent sidewalk dining permits.

Recommendations for Council action:

1. REQUEST the City Attorney to draft an ordinance to enable the Bureau of Engineering (BOE) to utilize the Special Engineering Fee established in LAMC 61.14 to charge for Revocable Permits in cases where the time to process the Revocable Permit would be substantially less than provided in the Tier 1 Revocable Permit fee.
2. DIRECT the BOE to present an automated LA Al Fresco transition process to the Board of Public Works (BPW) for their consideration
3. DIRECT the BOE to report to Council within 30 days of the BPW action to provide an update on the proposed LA Al Fresco transition process.

Fiscal Impact Statement: None submitted by the BOE. Neither the City Administrative Officer nor the Chief Legislative Analyst has completed a financial analysis of this report.

Community Impact Statement: None submitted

(Transportation Committee waived consideration of the above matter)

SUMMARY

At the meeting held on November 24, 2021, your Public Works Committee considered a BOE report relative to expeditiously transitioning the Al Fresco dining program participants into permanent sidewalk dining permits.

After an opportunity for public comment, the Committee moved to approve the BOE's recommendations, as detailed above. This matter is now forwarded to the Council for its consideration.

Respectfully Submitted,

PUBLIC WORKS COMMITTEE

<u>MEMBER</u>	<u>VOTE</u>
BLUMENFIELD	YES
LEE	YES
DE LEÓN	YES
O'FARRELL	YES
KORETZ	ABSENT

ME 11/24/21

-NOT OFFICIAL UNTIL COUNCIL ACTS-

Department of Public Works

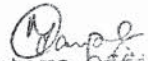
Bureau of Engineering
Bureau of Street Services
Joint Report No. 1

October 20, 2021
CD Nos. All

REVISED POLICY ON SIDEWALK DINING

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

OCT 20 2021


Executive Officer
Board of Public Works

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

TRANSMITTAL NO. 9

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.*

Department of Public Works
Bureau of Engineering
Bureau of Street Services
Joint Report No. 1

October 20, 2021

Page 3

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 AI 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 AI 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 AI Fresco Program participants to the R-Permits.

Department of Public Works
Bureau of Engineering
Bureau of Street Services
Joint Report No. 1

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Page 5

(WT RMK TA DR AB GH)

Report reviewed by:

BOE (ADM)

Report prepared by:

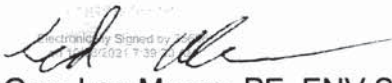
Central District

Wesley Tanijiri, PE
District Engineer
Phone No.: (213) 482-7049

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

Questions regarding this
report may be referred to:
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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

REVISED POLICY ON SIDEWALK DINING

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.

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

APR 03 2019


Executive Officer
Board of Public Works

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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Page 3

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 $\frac{1}{4}$ inch.
- Sidewalk Cross-slope - Need not to exceed a 2 percent slope.
- Horizontal Displacement (cracks and crumbling) - Need not to exceed a $\frac{1}{4}$ 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

April 3, 2019
Page 5

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.

Joint Report No. 1

Page 6

(RS TA RMK GH GS)

Report reviewed by:

BOE (ADM)

Report prepared by:

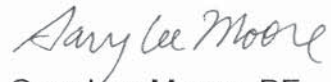
Central District

Ramzy Sawaya, PE, SE
District Engineer
Phone No. (213) 482-7049

RS/02-2019-0021.CEN.gva

Questions regarding this
report may be referred to:
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Respectfully submitted,



Gary Lee Moore, PE
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

April 10, 2006
CD Nos. ALL

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


Secretary

**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.

Department of Public Works
Bureau of Engineering
Bureau of Street Services
Joint Report No. 1

April 10, 2006
Page 3

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



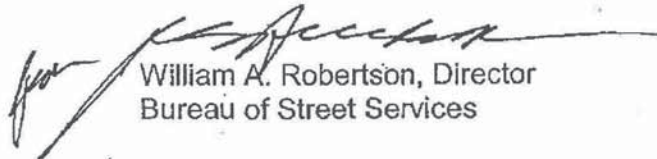
Lemuel M. Paco, P.E.
District Engineer
Phone No. (213) 482-7049

Gary Lee Moore, P.E.
City Engineer

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

Questions regarding this report
may be referred to:

Writer: Wesley Tanjiri, 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

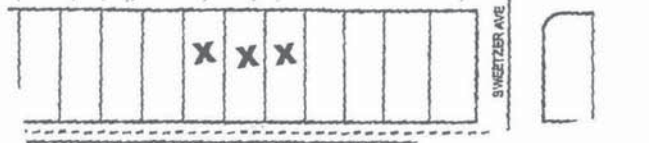
Example 1

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



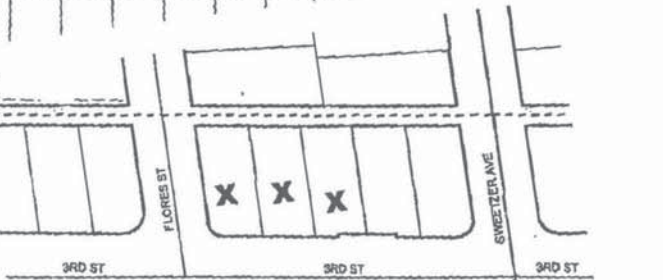
Example 2

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
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PRESIDENT

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CALIFORNIA



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

MOTION

I HEREBY MOVE that Council AMEND the Transportation Committee report relative to developing a permanent AI 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 AI 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>
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BONIN:	YES
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BUSCAINO:	YES
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KORETZ:	YES
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jaw

-NSOSFFT TALNOTAI SLNI TACI OU-

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: March 11, 2021

TO: Honorable Members of the Council

FROM: Sharon M. Tso *SMTJO*
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

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
-----------	-----

RODRIGUEZ:	YES
------------	-----

ME 12/8/20

-NOT OFFICIAL UNTIL COUNCIL ACTS-

**BOARD OF PUBLIC WORKS
MEMBERS**

GREG GOOD
PRESIDENT

AURA GARCIA
VICE PRESIDENT

DR. MICHAEL R. DAVIS
PRESIDENT PRO TEMPORE

JESSICA M. CALOZA
COMMISSIONER

M. TERESA VILLEGAS
COMMISSIONER

DR. FERNANDO CAMPOS
EXECUTIVE OFFICER

CITY OF LOS ANGELES

CALIFORNIA



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>

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,



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

187722

ORDINANCE NO. _____

An ordinance amending Section 62.118.2 of the Los Angeles Municipal Code to authorize the use of the Special Engineering Fee for certain Revocable Permit applications, and to authorize a Department of Transportation Application Review Fee for Revocable Permit applications for roadway dining areas.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Section 62.118.2 of the Los Angeles Municipal Code is amended to read as follows:

SEC. 62.118.2. IMPROVEMENTS IN PUBLIC STREETS – ISSUANCE OF REVOCABLE PERMITS.

(a) Revocable Permits.

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 (Bureau) 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. The Bureau shall charge and collect a fee to conduct an investigation to determine whether to issue a permit pursuant to the provisions of this section, and shall charge a fee of \$556 if no field investigation is required (Tier 1 fee), and shall charge a fee of \$1,854 if a field investigation is required (Tier 2 fee).

For Revocable Permit applications submitted under this subsection where the Bureau anticipates the staff time to process the permit application is three hours or less and for which no field investigation is required, the Bureau shall charge only the hourly Special Engineering Fee at the rate set forth in Section 61.14 of this Code in lieu of the Tier 1 fee. In such case, an applicant for a Revocable Permit must pay, before the Bureau provides any services, a deposit corresponding to the time the Bureau estimates will be needed to process the Revocable Permit application. If, before completion of the processing of the Revocable Permit application, the Bureau determines that additional time is needed to process the application, the Bureau may require the applicant to pay an additional deposit corresponding to the time the Bureau estimates will be needed to complete the processing of the application, up to a maximum of three hours total.

If an applicant paid the Special Engineering Fee and the Bureau determines that more than three hours of Bureau staff time is necessary to

process and determine whether to issue the Revocable Permit, the Tier 1 fee shall apply, and the Bureau shall charge and collect from the applicant the Tier 1 fee, including a credit for any Special Engineering Fees already paid.

If an applicant paid a Tier 1 fee and the Bureau of Engineering determines that it will be required to conduct a field investigation, the Bureau shall charge and collect from the applicant a fee of \$1,298, in addition to the \$556 already paid. If the Bureau is required to prepare a report of its investigation for consideration by the Board, the applicant shall not owe a Tier 1 or Tier 2 fee, and instead the Bureau shall charge and collect its actual costs (Tier 3 fee) and a deposit of such costs as determined and collected pursuant to the provisions of Section 61.15 of this Code.

(b) Revocable Permits – Roadway Dining Areas.

In addition to the fees required in Subsection (a), an application for a Revocable Permit for the purpose of establishing a Roadway Dining Area shall be subject to the following Department of Transportation fees.

(1) Application Review Fee – Existing Roadway Dining Area.

An applicant requesting a Revocable Permit for a Roadway Dining Area who already received a temporary use authorization for Roadway dining under the L.A. Al Fresco Program during the 2020-2022 COVID-19 pandemic and “Safer at Home” declarations shall be charged a Department of Transportation Application Review Fee of \$1,200.


(2) Application Review Fee – New Roadway Dining Area.

An applicant requesting a Revocable Permit for a Roadway Dining Area who did not receive a temporary use authorization for Roadway dining under the L.A. Al Fresco Program during the 2020-2022 COVID-19 pandemic and “Safer at Home” declarations shall be charged a Department of Transportation Application Review Fee of \$1,500.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
EDWARD M. JORDAN
Assistant City Attorney

Date 6/15/22

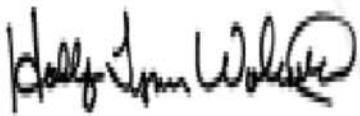
File No. 20-1074

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The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR





Ordinance Passed December 6, 2022

Approved 12/10/2022

Published Date: 12/19/2022
Ordinance Effective Date: 01/19/2023



LOS ANGELES CITY PLANNING COMMISSION

200 North Spring Street, Room 272, Los Angeles, California, 90012-4801, (213) 978-1300
www.planning.lacity.org

LETTER OF DETERMINATION

MAILING DATE: MAY 9, 2023

Case No. CPC-2022-8179-CA
 CEQA: ENV-2022-8180-CE
 Plan Area: Citywide

Council District: Citywide

Project Site: Citywide

Applicant: City of Los Angeles

At its meeting of **April 27, 2023**, the Los Angeles City Planning Commission took the actions below in conjunction with the approval of the following Code Amendment:

An ordinance amending Sections 12.03, 12.10.5, 12.11.5, 12.12.2, 12.13, 12.13.5, 12.14, 12.21, 12.21.1, 12.22, 12.24, and 16.02.1 of the Los Angeles Municipal Code (LAMC) to clarify and streamline Zoning Code regulations regarding outdoor dining on private property. Outdoor dining that complies with the applicable standards would be permitted as a by-right use in any zones where restaurants are currently permitted. Any outdoor alcohol service would continue to require compliance with all applicable zoning regulations as stated in an existing or new discretionary approval or in compliance with the proposed new ministerial approval.

1. **Determined**, based on the whole of the administrative record, that the Project is exempt from CEQA pursuant to CEQA Guidelines, Sections 15303 and 15311, and California Public Resources Code Section 21080.25, and there is no substantial evidence demonstrating that an exception to a Categorical Exemption pursuant to CEQA Guidelines, Section 15300.2 applies;
2. **Approved** and **Recommended** that the City Council **adopt** the attached Proposed Ordinance;
3. **Recommended** that the City Council **instruct** that the Proposed Ordinance be incorporated into the New Zoning Code (future Chapter 1A of the Los Angeles Municipal Code), subject to changes to conform to the format and style of the New Zoning Code;
4. **Instructed** the Department of City Planning Staff to report to City Council with recommendations on allowing ambient music in an Outdoor Dining Area;
5. **Adopted** the Staff Recommendation Report as the Commission's Report on the subject; and
6. **Adopted** the attached Amended Findings.

The vote proceeded as follows:

Moved: Millman
 Second: Choe
 Ayes: Cabildo, Lawshe, Zamora
 Absent: Leung, Mack, Perlman

Vote: 5 – 0

TRANSMITTAL NO. 9



Cecilia Lamas, Commission Executive Assistant II
Los Angeles City Planning Commission

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

Effective Date/Appeals: The decision of the Los Angeles City Planning Commission is final and not appealable.

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachments: Proposed Ordinance, Amended Findings

- c: Arthi Varma, Deputy Director
- Hagu Solomon-Cary, Principal City Planner
- Bonnie Kim, City Planner
- Mary Richardson, City Planning Associate
- Regina Joy Alcazar, Planning Assistant

ORDINANCE NO.

An ordinance amending Sections 12.03, 12.10.5, 12.11.5, 12.12.2, 12.13, 12.13.5, 12.14, 12.21, 12.21.1, 12.22, 12.24, and 16.02.1 of the Los Angeles Municipal Code (LAMC) in order to streamline outdoor dining provisions throughout the Zoning Code.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Sec. 1. Section 12.03 of Article 2 of Chapter 1 of the LAMC shall be amended to read as follows:

FLOOR AREA. (Amended by Ord. No. 182,386, Eff. 3/13/13.) The area in square feet confined within the exterior walls of a Building, but not including the area of the following: exterior walls, stairways, shafts, rooms housing Building-operating equipment or machinery, parking areas with associated driveways and ramps, space dedicated to bicycle parking, space for the landing and storage of helicopters, Outdoor Dining Areas, and Basement storage areas. Buildings on properties zoned RA, RE, RS, and R1, except properties in the Coastal Zone which are not designated as Hillside Area, are subject to the definition of Residential Floor Area.

OUTDOOR DINING AREA. A covered or uncovered, but not fully enclosed portion of a restaurant, with no more than one structural wall (not inclusive of movable delineators or fencing) which is located in a space that is outside of a wholly enclosed building or structure, including but not limited to an open to sky parking area, patio, courtyard, or plaza, and is used for the service and consumption of food and drinks by the patrons of the restaurant.

~~OUTDOOR EATING AREA.~~ ~~When used in Sections [12.12.2](#), [12.13](#), [12.14](#), [12.21.1](#) and [12.24](#), this term shall refer to a covered or uncovered portion of a ground floor restaurant which is not completely enclosed within the building; is used primarily for the consumption of food and/or drinks by the patrons of the restaurant; and is not larger than 50 percent of the dining area of the ground floor restaurant. A “ground floor” restaurant refers to any restaurant with an average finished floor elevation either below or not more than three feet above natural grade as measured from any point along the exterior building wall closest to the restaurant. (Amended by Ord. No. 165,403, Eff. 2/17/90.)~~

Sec. 2. (RAS3) Subdivision 2 of Subsection B of Section 12.10.5 of Article 2 of Chapter 1 of the LAMC shall be amended to read as follows:

2. All activities are conducted wholly within an enclosed building, except that restaurants may have ~~outdoor eating areas~~ Outdoor Dining Areas.

Sec. 3. (RAS4) Subdivision 2 of Subsection B of Section 12.11.5 of Article 2 of Chapter 1 of the LAMC shall be amended to read as follows:

2. All activities are conducted wholly within an enclosed building, except that restaurants may have ~~outdoor eating areas~~ Outdoor Dining Areas.

Sec. 4. (CR Limited) Subdivision 13 of Subsection A of Section 12.12.2 of Article 2 of Chapter 1 of the LAMC shall be amended to read as follows:

13. Restaurant, when conducted within a permitted office building, provided: that entrances to the restaurant are located inside of the building; that no sign or other form of advertising is visible from outside the office building; that no sign or other form of advertising is utilized in any manner whatsoever outside of the building as a means of advertising the restaurant; that the restaurant remains open for business only between the hours of 7 a.m. to 8 p.m., Monday through Saturday; and that no entertainment or dancing is conducted or permitted. Outdoor Dining Areas are permitted pursuant to 12.21 A.24. ~~An outdoor eating area for a ground floor restaurants may be located anywhere between the building and its required front yard, or between the building and any required side or rear yard which side or rear yard abuts a public street. (Amended by Ord. No. 165,403, Eff. 2/17/90.)~~

Sec. 5. (C1) Subparagraph 2 of Paragraph b of Subdivision 2 of Subsection B of Section 12.13 of Article 2 of Chapter 1 of the LAMC shall be amended to read as follows:

(2) All activities are conducted wholly within an enclosed building, except that ~~ground floor restaurants may have~~ Outdoor Dining Areas. ~~outdoor eating areas.~~ ~~An outdoor eating area for a ground floor restaurants may be located anywhere between the building and its required front yard, or between the building and any required side or rear yard which side or rear yard abuts a public street. (Amended by Ord. No. 165,403, Eff. 2/17/90.)~~

Sec. 6. (C1.5) Subparagraph 3 of Paragraph b of Subdivision 2 of Subsection A of Section 12.13.5 of Article 2 of Chapter 1 of the LAMC shall be amended to read as follows:

- (3) All activities, including storage, with the exception of Outdoor Dining Areas, shall be conducted wholly within an enclosed building.

Sec. 7. (C2) Subdivision 10 of Subsection A of Section 12.14 of Article 2 of Chapter 1 of the LAMC shall be amended to read as follows:

- (10) Restaurant, tea room or cafe (including entertainment other than dancing) or a ground floor restaurant with an Outdoor Dining Area ~~outdoor eating area~~. ~~An outdoor eating area for ground floor restaurants may be located anywhere between the building and any required side or rear yard.~~ **(Amended by Ord. No. 165,403, Eff. 2/17/90.)**

DRAFT

Sec. 8. A new Subdivision 24 shall be added to Subsection A of Section 12.21 of Article 2 of Chapter 1 of the LAMC to read as follows:

A. **Use**

24. Outdoor Dining Area Regulations for Restaurants

(a) Purpose. The purpose of this section is to establish development, operational, and maintenance standards to facilitate outdoor dining areas to support public health, safety, and welfare.

(b) Applicability. Outdoor Dining Areas on private property in all RAS, C, and M zones, and/or wherever restaurants are allowed, shall be permitted pursuant to the regulations in this Subsection. This ordinance and the Outdoor Dining Area standards expressed herein may, at the applicant's request, supersede conditions associated with outdoor dining which were previously applied under a discretionary approval.

(c) Eligibility. A restaurant which currently provides and/or proposes to offer Outdoor Dining Areas shall have all necessary permits to operate a restaurant. A restaurant, however, that has been the subject of a wage claim under either the California Labor Code or Article 8 (Los Angeles Office Of Wage Standards Ordinance) of Chapter 18 of the LAMC that resulted in an adverse order, decision or award shall not be eligible.

(d) Outdoor Dining Area Standards

(1) Operations

(i) Music, television monitors, screens and speakers are prohibited in Outdoor Dining Areas.

(ii) Live entertainment, dancing, pool tables, billiard tables, and adult entertainment uses are prohibited in Outdoor Dining Areas.

(iii) An Outdoor Dining Area shall operate no later than 11 p.m. if within 250 feet of a residential zone, not including the RAS zone.

a. Notwithstanding the above, an Outdoor Dining Area in a CR zone shall comply with the limitations of Sec. 12.12.2 A 13.

(iv) Outdoor Dining Areas shall be cleaned nightly and adjoining sidewalk areas shall be kept free of debris, litter and graffiti.

(v) A City-issued identification shall be posted in the Outdoor Dining Area and made clearly visible to the public, indicating that the area is subject to the standards of the Al Fresco Ordinance. This shall include a telephone number and an email address shall be provided for complaints or concerns regarding the operation of the Outdoor Dining Area.

(2) Parking Relief. When an Outdoor Dining Area is located in a building's parking area, automobile parking spaces may be replaced by Outdoor Dining Area.

(3) Alcohol Service

(i) In addition to the standards listed above in Sec. 12.21 A.24(d)(1) and (2), the following standards apply when alcohol service is provided in an Outdoor Dining Area on private property:

- a. All alcohol that is served shall be delivered to and served at tables by employees.
- b. All patrons shall be seated.
- c. Only fixed or portable bars not used as a point of sale are permitted in an Outdoor Dining Area.

(ii) When a revocable permit is issued for outdoor dining in the public right-of-way and alcohol service is proposed, the following standards apply and shall be enforced by the Department of Building and Safety:

- a. All alcohol that is served shall be delivered to and served at tables by employees.
- b. All patrons shall be seated.
- c. Only fixed or portable bars not used as a point of sale are permitted in an Outdoor Dining Area.

(e) Administration

(1) Alcohol Authorizations. Notwithstanding the provisions of 12.24 W.1, modifications or expansions of alcohol service for an Outdoor Dining Area shall be authorized pursuant to this Subsection through an administrative verification process.

(i) Restaurants shall be considered deemed to be approved and authorized to continue operations in compliance with the standards listed above in Sec. 12.21 A.24(d) if they meet the eligibility criteria listed below. No fee shall be charged for administrative

verification of AI Fresco deemed to be approved status. Deemed to be approved status must be obtained within six months of the expiration of the LA AI Fresco Authorization.

- a. Have a valid LA AI Fresco Authorization issued or renewed as of the effective date of this ordinance;
- b. Have a valid approval for alcohol service from the Department of City Planning or have existing alcohol sales with no conditional use approval prior to March 1, 1977; and
- c. Have a license to sell alcohol from the California Department of Alcoholic Beverage Control.

(ii) Restaurants that did not receive the above-stated deemed to be approved status shall be authorized to serve alcohol in Outdoor Dining Areas pursuant to an Expanded Outdoor Dining Area Clearance in compliance with the standards listed above in Sec. 12.21 A.24(d) if they meet the eligibility criteria listed below. The “Building Permit Clearance - Minor” fee pursuant to Sec. 19.04 of this Code shall be charged for an Expanded Outdoor Dining Area Clearance.

- a. Have a valid approval for alcohol service from the Department of City Planning or have existing alcohol sales with no conditional use approval prior to March 1, 1977; and
- b. Have a license to sell alcohol from the California Department of Alcoholic Beverage Control.

- (2) **Deviation.** Deviation from the Outdoor Dining Area standards in Sec. 12.21 A.24(d) may be requested through the approval of plans on the original discretionary entitlement pursuant to Sec. 12.24 M.
- (3) **Enforcement.** Non-compliance with the Outdoor Dining Area standards may result in enforcement actions pursuant to Sec. 12.27.1.
- (4) **Hazardous Site Assessment.** If the Outdoor Dining Area involves soil disturbance on land that is a known hazardous materials release site listed on the Hazardous Waste and

Substances Sites (Cortese) List, the applicant shall prepare a Phase I Environmental Site Assessment (ESA) and if needed, a Phase II ESA and comply with any necessary remediation(s). A No Further Action letter, or some other comparable documentation, issued by the appropriate regulatory agency shall be required.

(f) Relationship to Other Zoning Provisions. An Outdoor Dining Area shall not be considered a project nor require any design review procedures under any Specific Plan, Supplemental Use District, or other overlay, except for Historic Preservation Overlay Zones (HPOZs) pursuant to LAMC Section 12.20.3, including but not limited to the Ordinance Nos. listed below. Furthermore, the Outdoor Dining Area Standards in Section 12.21 A.24(d) shall prevail and supersede any conflicting provisions found in such Specific Plans, Supplemental Use Districts, or other overlays, except HPOZs, or Chapter I of this Code.

- (1) 171,139 (Alameda District Specific Plan)
- (2) 174,663 (Avenue 57 Transit Oriented District)
- (3) 182,576 (Bunker Hill Specific Plan)
- (4) 156,122 (Century City North Specific Plan)
- (5) 186,370 (Century City West Specific Plan)
- (6) 168,862 (Century City South Specific Plan)
- (7) 170,046 (Coastal Bluffs Specific Plan)
- (8) 186,105 (Coastal Transportation Corridor Specific Plan)
- (9) 185,042 (Coliseum District Specific Plan)
- (10) 178,098 (Colorado Boulevard Specific Plan)
- (11) 182,617 (Cornfield Arroyo Seco Specific Plan)
- (12) 184,795 (Crenshaw Corridor Specific Plan)
- (13) 168,937 (Devonshire/Topanga Corridor Specific Plan)
- (14) 186,402 (Exposition Corridor Transit Neighborhood
Plan)
- (15) 170,694 (Foothill Boulevard Corridor Specific Plan)
- (16) 171,946 (Glencoe/Maxella Specific Plan)
- (17) 184,296 (Granada Hills Specific Plan)
- (18) 168,121 (Hollywoodland Specific Plan)
- (19) 184,346 (Jordan Downs Urban Village Specific Plan)
- (20) 167,940 (Los Angeles Airport/El Segundo Dunes
Specific Plan)
- (21) 185,164 (Los Angeles International Airport (LAX)
Specific Plan)

- (22) 181,334 (Los Angeles Sports and Entertainment District Specific Plan)
- (23) 181,605 (Loyola Marymount University Specific Plan)
- (24) 167,943 (Mulholland Scenic Parkway Specific Plan)
- (25) 171,128 (North University Park Hills Specific Plan)
- (26) 163,202 (North Westwood Village Specific Plan)
- (27) 170,155 (Oxford Triangle Specific Plan)
- (28) 184,371 (Pacific Palisades Commercial Village and Neighborhood Specific Plan)
- (29) 184,539 (Paramount Pictures Specific Plan)
- (30) 162,530 (Park Mile Specific Plan)
- (31) 165,638 (Playa Vista Area B Specific Plan)
- (32) 165,639 (Playa Vista Area C Specific Plan)
- (33) 176,235 (Playa Vista Area D Specific Plan)
- (34) 180,083 (Porter Ranch Land Use/Transportation Specific Plan)
- (35) 175,736 (San Gabriel/Verdugo Mountains Scenic Preservation Specific Plan)
- (36) 166,352 (San Pedro Specific Plan)
- (37) 173,381 (San Vicente Scenic Corridor Specific Plan)
- (38) 182,343 (University of Southern California University Park Campus Specific Plan)
- (39) 168,613 (Valley Village Specific Plan)
- (40) 175,693 (Venice Coastal Zone Specific Plan)
- (41) 174,052 (Ventura-Cahuenga Boulevard Corridor Specific Plan)
- (42) 173,749 (Vermont/Western Transit Oriented District Specific Plan (Station Neighborhood Area Plan))
- (43) 182,766 (Warner Center 2035 Plan)
- (44) 186,108 (West Los Angeles Transportation Improvement and Mitigation Specific Plan)
- (45) 187,644 (Westwood Village Specific Plan, Westwood Community Design Review Board Specific Plan)
- (46) 155,044 (Wilshire - Westwood Scenic Corridor Specific Plan)
- (47) 185,539 (San Pedro CPIO District)
- (48) 185,927 (South Los Angeles CPIO District)
- (49) 185,925 (Southeast Los Angeles CPIO District)
- (50) 184,268 (Sylmar CPIO District)

- (51) 184,794 (West Adams-Baldwin Hills-Leimert CPIO District)
- (52) 187,155 (Westchester - Playa del Rey CPIO District)
- (53) 180,871 (Broadway Theater and Entertainment District Design Guide)
- (54) 174,519 (Canoga Park-Commercial Corridor CDO District)
- (55) 108,561 (Cypress Park & Glassell Park CDO)
- (56) 173,508 (Downtown Canoga Park CDO District)
- (57) 179,907 (Downtown Westchester CDO District)
- (58) 180,880 (Echo Park CDO District)
- (59) 178,157 (Fletcher Square CDO District)
- (60) 179,906 (Lincoln Boulevard CDO District)
- (61) 176,658 (Lincoln Heights CDO District)
- (62) 183,011 (Little Tokyo CDO District)
- (63) 180,797 (Loyola Village CDO District)
- (64) 176,331 (Miracle Mile CDO District)
- (65) 175,545 (Pacoima CDO District)
- (66) 175,549 (Panorama City CDO)
- (67) 176,557 (Reseda Central Business District CDO District)
- (68) 174,398 (Sun Valley CDO District)
- (69) 184,366 (Toluca Lake Village CDO)
- (70) 174,420 (Van Nuys Central Business District CDO District)
- (71) 174,161 (West Wilshire Boulevard CDO District)
- (72) 173,676 (Atwater Village POD)
- (73) 171,859 (Westwood/Pico NOD)
- (74) 174,260 (Westwood Boulevard POD)

Sec. 9. (*Height of Buildings or Structures*) Subdivision 5 of Subsection A of Section 12.21.1 of Article 2 of Chapter 1 of the LAMC shall be amended to read as follows:

5. In computing the total floor area within a building, the gross area confined within the exterior walls within a building shall be considered as the floor area of that building, except for the space devoted to bicycle parking, stairways, elevator shafts, light courts, rooms housing mechanical equipment incidental to the operation of buildings, and ~~outdoor eating areas of ground floor restaurants.~~ Outdoor Dining Areas. (Amended by Ord. No. 182,386, Eff. 3/13/13.)

Sec. 10. Subparagraph (5) of Paragraph (a) of Subdivision 34 of Subsection A of Section 12.22 of Article 2 of Chapter 1 of the LAMC shall be amended to read as follows:

(b) Eligibility Criteria.

(5) The restaurant shall have between a minimum of 10 patron seats and a maximum of 150 patron seats, including any outdoor seating.

Exemption. Outdoor Dining Areas pursuant to 12.21 A.24 shall be exempt from the above outdoor seating limitation.

Sec. 11. Subparagraph (4) of Paragraph (b) of Subdivision 34 of Subsection A of Section 12.22 of Article 2 of Chapter 1 of the LAMC shall be amended to read as follows:

(b) Development Standards and Operations.

(4) For properties abutting or across an alley from an A or R zoned lot:

(i) a wholly enclosed building, at least 8 feet in height above grade and extending at least the full length of the outdoor dining area, shall be located between the outdoor dining area and an A or R zoned lot that may or may not be separated by an alley. This requirement shall not apply to outdoor dining permitted on a public sidewalk by a revocable permit issued by the Bureau of Engineering, Department of Public Works; and

(ii) outdoor seating shall be limited to the ground floor only.

Exemption. Outdoor Dining Areas pursuant to 12.21 A.24 shall be exempt from the above standards.

Sec. 12. Sub-subparagraph (ii) of Subparagraph (6) of Paragraph (e) of Subdivision 34 of Subsection A of Section 12.22 of Article 2 of Chapter 1 of the LAMC shall be amended to read as follows:

(e) **Administration.**

(6) The owner or the operator of the restaurant shall reapply for the administrative clearance if there is:

(ii) a modification to the floor plan, including, but not limited to, floor area or number of seats, or a modification to outdoor seating.

Exception. Modification to the number of seats or outdoor seating for the purposes of Outdoor Dining Areas pursuant to 12.21 A.24 shall not require reapplication.

Sec. 13. (CUB) A new Paragraph (e) shall be added to Subdivision 1 of Subsection W of Section 12.24 of Article 2 of Chapter 1 of the LAMC as follows:

(e) **Exceptions.** Notwithstanding Paragraph (d) above, conditional use approval or a plan approval shall not be required solely for the purposes of providing an Outdoor Dining Area pursuant to Sec 12.21 A.24.

Sec. 14. Subdivision 32 of Subsection W of Section 12.24 of Article 2 of Chapter 1 of the LAMC shall be deleted:

32. ~~Outdoor eating areas for ground floor restaurants in the GR zone, C1, and C1.5 Zones and/or wherever restaurants are allowed, if not permitted by right.~~

Sec. 15. Subdivision 2 of Subsection D of Section 16.02.1 of Article 6 of Chapter 1 of the LAMC shall be amended to read as follows:

2. Outdoor ~~Eating~~Dining Areas. Notwithstanding any provisions of this Code or any Zoning Administrator interpretations of this Code to the contrary, any new or expanded Outdoor ~~Eating~~Dining Areas shall not require any automobile parking, and the maintenance of existing automobile parking shall not be required for any portion of the parking lot utilized for an approved Outdoor ~~Eating~~Dining Area during the period that these provisions are invoked, pursuant to this section, if the following requirements are met:
- (a) **Eligibility.** Only permitted establishments with verifiable indoor seating for on-premise dining are eligible for the relief provided within this subdivision.
 - (b) **Consistency.** The relief provided in this subdivision is limited to the automobile parking provisions enumerated herein, and the project shall otherwise be consistent with this Code and the General Plan.
 - (c) **Termination.** Whenever the provisions of this section cease to apply, the automobile parking requirements that existed prior to the declaration of the local emergency shall be met, and any Outdoor ~~Eating~~Dining Areas shall comply with this Code and any applicable Specific Plan, notwithstanding this Section.

Sec. 16. The City Clerk shall certify that.....

FINDINGS

(As Amended by the City Planning Commission at its meeting on April 27, 2023)

Land Use Findings

Charter Finding 556 (General Plan). In accordance with City Charter Section 556, the proposed Ordinance is in substantial conformance with the purposes, intent, and provisions of the General Plan.

The City established the temporary L.A. Al Fresco program in May 2020 during the COVID-19 pandemic and local state of emergency to allow restaurants to operate outdoor dining areas through a free streamlined application process, bypassing many of the regulations of the Zoning Code. Following the success of L.A. Al Fresco, the City drafted a proposed Ordinance that would create a permanent administrative “by-right” approval process for outdoor dining areas on private property and ensure that existing participants are able to continue operations with their current approvals.

Both participating and new restaurants will be able to expand outdoor dining areas by-right if they comply with the proposed Ordinance’s standards for eligibility, operations, and, if applicable, alcohol service. These standards replace certain Zoning Code restrictions on outdoor dining on private property while taking into consideration impacts outdoor dining may have on neighbors and residential areas. By facilitating the expansion of outdoor dining, the proposed Ordinance aims to beautify, expand street use, and improve governmental services as prioritized in various elements of the General Plan.

This proposed Ordinance furthers the following objectives and policies of the General Plan:

Land Use (Chapter 3)
<p>Policy 3.4.3 Establish incentives for the attraction of growth and development in the districts, centers, and mixed-use boulevards targeted for growth that may include:</p> <ul style="list-style-type: none"> d. Streamlined development review processes f. Modified parking requirements in areas in proximity to transit or other standards that reduce the cost of development
Economic Development (Chapter 7)

Objective 7.4 Improve the provision of governmental services, expedite the administrative processing of development applications, and minimize public and private development application costs.

Policy 7.4.1 Develop and maintain a streamlined development review process to assure the City's competitiveness within the Southern California region.

Policy 7.4.2 Maximize opportunities for "by-right" development.

Policy 7.4.3 Maintain development fee structures that do not unreasonably burden specific industry groups, are financially competitive with other cities in the region, and reduce uncertainty to the development community.

Mobility Element ([Mobility Plan 2035](#))

Policy 1.7 Regularly Maintained Streets: Enhance roadway safety by maintaining the street, alley, tunnel, and bridge system in good to excellent condition.

Policy 2.1 Adaptive Reuse of Streets: Design, plan, and operate streets to serve multiple purposes and provide flexibility in design to adapt to future demands.

Policy 4.13 Parking and Land Use Management: Balance on-street and off-street parking supply with other transportation and land use objectives.

Health Element ([Plan for a Healthy Los Angeles](#))

Policy 1.1 Leadership Position: Los Angeles as a regional leader by collaborating across departments, agencies, sectors, and jurisdictions to incorporate health, equity, and sustainability considerations into policies, programs, and procedures.

Policy 2.9 Community Beautification: Proactively work with residents and public, private, and nonprofit partners to develop, execute, and maintain civic stewardship over community beautification efforts to promote neighborhoods that are clean, healthy, and safe.

The General Plan establishes growth and development policies by providing a comprehensive long-range view of the City as a whole. The proposed Ordinance contributes to the land use diversity and economic development of the City, while also carrying out policies in both the Mobility (Mobility Plan 2035) and Health (Plan for a Healthy Los Angeles) Elements.

The proposed Ordinance furthers Land Use Policy 3.4.4, namely by (d) creating a streamlined review process and (f) modifying parking requirements. The proposed

Ordinance expands on the temporary LA Al Fresco program, creating a permanent “by-right” review process for outdoor dining areas on private property. The streamlined and “by-right” nature of the new approval process will allow current Al Fresco participants as well as new participants to continue or begin their outdoor dining operations at little to no cost, subject to the submission of the appropriate documentation to the Department of City Planning and Department of Building and Safety. Lastly, the proposed Ordinance will allow the replacement of automobile parking spaces by outdoor dining areas, which is vital for restaurants as it decreases development costs and allows for the maximum utilization of private property for outdoor dining.

The proposed Ordinance’s new streamlined “by-right” process for outdoor dining on private property also aligns with Economic Development Objective 7.4 and Policies 7.4.1, 7.4.2, and 7.4.3. Clear standards and requirements are established for current L.A. Al Fresco participants to transition into a permanent program, as well as new applicants to begin outdoor dining operations. The proposed Ordinance creates no new additional fees that would be required for applications for outdoor dining on private property. This is imperative to reduce costs for restaurants and allow them to continue their economic recovery from the COVID-19 pandemic and emergency. Additionally, the streamlining of outdoor dining applications will also allow the City to compete with cities throughout the Southern California region and statewide, as other cities and counties have already adopted permanent outdoor dining programs or are preparing a permanent program, such as the Cities of San Diego, Santa Monica, Beverly Hills, and San Francisco. Each jurisdiction has or is considering different application requirements and standards pertaining to outdoor dining, such as location, design, and hours of operation.

The proposed Ordinance further encourages “by-right” development as specified in Economic Development Policy 7.4.2 by establishing a streamlined pathway for current participants of the temporary LA Al Fresco program to transition to the permanent program. As part of this streamlining, the proposed Ordinance’s standards pertaining to outdoor dining areas may supersede project-specific conditions of approval (such as those associated with a Conditional Use Permit) that would preclude or conflict with outdoor dining, at the applicant’s request. The substitution of any conflicting conditions will promote the “by-right” character of the LA Al Fresco Program and greatly decrease the processing time for Al Fresco applications to allow small and local restaurants to continue their outdoor operations with little to no disruption in service and continue their economic recovery from the COVID-19 pandemic and emergency. Furthermore, the proposed Ordinance contains robust outdoor dining standards to protect the public health, welfare, and safety of communities and residential areas by addressing common issues that may be associated with outdoor dining, such as noise and operations. Music, television monitors, and live entertainment would be prohibited in outdoor dining areas and they must be properly maintained at all times. If within 250 feet of a residential zone, the outdoor dining area must close at 11pm. The “by-right” nature of the permanent Al Fresco Program will promote livability and convenience for residents and employees,

promote a variety of uses, and strengthen the employment and amenity base of communities.

The streamlining of outdoor dining approvals as outlined in the proposed Ordinance also aligns with Policies 1.7, 2.1, 2.14, and 4.13 of the Mobility Element (Mobility Plan 2035). First, as part of the outdoor dining standards, restaurants will be required to clean outdoor dining areas nightly and maintain adjoining sidewalk areas free of debris, litter, and graffiti. Furthermore, the proposed Ordinance will facilitate the conversion of off-street parking to outdoor dining areas. This will help de-emphasize land used for parking, such as surface parking lots, in favor of outdoor dining areas, promoting safety for patrons, residents, and the community. More importantly, automobile parking spaces used for outdoor dining will not need to be replaced.

Lastly, the proposed Ordinance aims to promote public health, namely Policies 1.1 and 2.9 of the Health Element (Plan for a Healthy Los Angeles). The temporary LA Al Fresco program was started to provide opportunities for patrons and residents to enjoy restaurant dining at locations where the risk of exposure to COVID-19 was minimized. Safety issues associated with the COVID-19 pandemic remain, and as such, the permanent outdoor dining program will prove vital in ensuring patrons and residents, especially those that are immunocompromised or have other health concerns, continue to have equitable access to outdoor dining. The proposed outdoor dining standards will ensure that outdoor dining areas approved through the new process do not cause adverse effects to the public health, safety, and welfare of neighbors and surrounding communities, such as limiting noise and requiring proper maintenance of outdoor dining areas.

For the reasons stated above, the proposed Ordinance is in substantial conformance with the purposes, intent, and provisions of the General Plan.

City Charter Finding 558 and LAMC Section 12.32 (Public Necessity, Convenience, General Welfare, Good Zoning Practice). In accordance with City Charter Section 558 (b)(2) and LAMC Section 12.32 C.2 and C.7, the proposed Ordinance is in substantial conformance with public necessity, convenience, general welfare, and good zoning practice by promoting economic development, public safety, and community vibrancy.

The City established the temporary L.A. Al Fresco program in May 2020 during the COVID-19 pandemic and emergency to allow restaurants to operate outdoor dining areas through a streamlined process with minimal fees and application process, bypassing many of the regulations of the Zoning Code. This temporary program created a lifeline for many restaurants to resume operations and stay financially viable during the pandemic and emergency when indoor dining was limited due to local emergency orders. At the same time, the program promoted public health by providing opportunities for patrons and residents to enjoy restaurant dining at locations where the risk of exposure to COVID-19 was minimized. More than 2,500 restaurants citywide participated in the temporary L.A. Al Fresco program.

The proposed Ordinance expands on the temporary L.A. Al Fresco program by creating a new streamlined process in the Zoning Code to allow outdoor dining areas on private property, such as parking lots, with minimal requirements. The proposed Ordinance will allow restaurant owners to continue or begin outdoor dining operations at little to no cost, allowing them to fulfill the demand for safe dining spaces and an amenity that will serve patrons, residents, and visitors. Many of the benefits pertaining to economic development and public health brought forth by the temporary program will continue under the permanent program. Additionally, a permanent program will bring greater certainty to restaurants as it relates to outdoor dining regulations, which is vital for them to continue recovering economically from the COVID-19 pandemic and emergency. By streamlining outdoor dining in restaurants, the proposed Ordinance will help create more vibrant neighborhoods that will benefit local communities and commercial areas while leading to the growth of restaurants throughout the City.

Environmental Findings

Approval of the proposed Ordinance (Project) is supported by the **Categorical Exemption (ENV-2022-8180-CE)** prepared for this Project. In accordance with the California Environmental Quality Act (CEQA), the proposed Project is exempt from CEQA pursuant to California Public Resource Code Section 21080.25 and meets the criteria of a Categorical Exemption pursuant to CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures) and Section 15311 (Accessory Structures). Furthermore, there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines Section 15300.2 applies.

On the basis of the whole of the record before the Lead Agency including any comments received, the Lead Agency finds that there is no substantial evidence that the proposed Project will have a significant effect on the environment. The Project will not change zoning or General Plan designation or introduce any new land uses. It does not directly authorize new restaurants to be built and is only available where restaurants are an existing allowed use. The Project contains measures to avoid environmental impacts, such as noise and adverse behavior, and there is not a reasonable possibility that the Project may have a significant adverse effect on the environment given the existing physical conditions baseline and allowed use. As detailed in the Categorical Exception document (Environmental Case No. ENV-2022-8180-CE) prepared by the Lead Agency, and attached to the subject case file, the Project would not result in a cumulative impact or significant effect on the environment.

Chapter 2.6, Section 21080.25 of the State's Public Resources Code provides a statutory exemption from CEQA for a "project carried out by a City or County to reduce minimum parking requirements." A central component of this Project pertains to eliminating automobile parking requirements and provisions. The Project provides regulatory relief from automobile parking requirements needed for the placement of outdoor dining structures on private property that are ancillary to a restaurant's by-right use. The relief provided exempts existing and/or new outdoor dining areas from parking requirements

and further allows for restaurants to convert existing required automobile parking spaces to outdoor dining areas without needing to replace those spaces. This provision is permanent for eligible businesses and in some instances will result in an overall reduction of required parking below current LAMC parking requirements for the life of that use and/or structure. The utilization of a restaurant's parking spaces on private property would allow for the creation or modification of outdoor dining areas and would reduce minimum parking requirements. As such, the Project qualifies for the statutory exemption pursuant to Section 21080.25 of the State's Public Resources Code.