

MEETING DATE: 02/17/09

AGENDA ITEM: Approval of a Resolution Revising the Outdoor Dining Standards and Procedures on the Public Right-of-Way for Outdoor Dining License Agreements with a Revised Payment Schedule for the Annual Fees.

ATTACHMENTS

	<u>Pages</u>
1. Resolution R2009- Revising the Outdoor Dining Standards and Procedures on the Public Right-of-Way to Allow the Annual Outdoor Dining License Fee to be Billed in Monthly Installments and Rescinding Resolution 2008-R073.	1-13
2. Resolution R2008-R073, New Outdoor Dining Standards and Procedures for the Public Right-of-Way, approved by Council November 3, 2008.	14-26

Attachment 1

RESOLUTION NO. 2009-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CULVER CITY, CALIFORNIA, ADOPTING THE NEW OUTDOOR DINING STANDARDS AND PROCEDURES AND RESCINDING RESOLUTION NO. 2008-R073.

WHEREAS, the City Council has enacted procedures in Chapter 9.08 of the Culver City Municipal Code to permit the use of City sidewalks for outdoor dining under certain circumstances; and

WHEREAS, the Municipal Code requires the City Council to establish standards and procedures for the design and operation of outdoor dining areas by adoption of a Resolution; and

WHEREAS, the City Council desires to update these standards and procedures.

NOW, THEREFORE, the City Council of the City of Culver City, California, DOES HEREBY RESOLVE as follows:

SECTION 1. The Outdoor Dining Standards and Procedures, attached hereto as Exhibit A and incorporated herein by reference, are hereby approved and shall be effective on the date of the adoption of this Resolution.

SECTION 2. Resolution No. 2008-R073 is hereby rescinded.

Approved and Adopted this _____ day of February, 2009.

D. SCOTT MALSIN, Mayor

ATTEST:

APPROVED AS TO FORM:

Martin Cole, City Clerk

Carol Schwab, City Attorney

Exhibit A

OUTDOOR DINING STANDARDS AND PROCEDURES ON THE PUBLIC RIGHT-OF-WAY

January 29, 2009

**PUBLIC WORKS DEPARTMENT / Engineering Division
and
COMMUNITY DEVELOPMENT DEPARTMENT / Planning Division**

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I. INTRODUCTION

- A. An outdoor dining area is a place on the public sidewalk where patrons may consume food and/or beverages provided by an adjacent food service establishment. Such establishments may either provide table service in the outdoor dining area or sell take-out items consumed in the outdoor dining area.
- B. The Outdoor Dining Standards and Procedures are intended to encourage appropriate outdoor dining activities that will help create and maintain a dynamic business area that is of benefit to the customer, the business, and the City. Use of the public right-of-way for outdoor dining activities may only occur pursuant to an Outdoor Dining License Agreement. As provided in Section 9.08.035(C) of the Culver City Municipal Code, the City Engineer is authorized to approve an Outdoor Dining License Agreement application and to execute an Outdoor Dining License Agreement on behalf of the City. As a revocable, annually-renewed permit process, the Outdoor Dining License Agreement is intended to be made available to restaurants – and other select commercial uses citywide as may be approved by the City Engineer and as recommended by the Community Development Director or designee – so as to increase the floor area of their business by placing tables, chairs and other related improvements within the adjoining public right-of-way provided the standards contained herein are maintained in addition to all other applicable rules and regulations as may be listed in the Culver City Municipal Code (CCMC).
- C. These standards and procedures regulate the design and operation of outdoor dining areas in the public right-of-way in Culver City and do not apply to outdoor dining on private property. In addition, they do not provide information on all government agency requirements for starting a new restaurant or expanding an existing one. Business owners must secure the appropriate licenses and permits from the State Alcoholic Beverage Control Board, Los Angeles County Health Department, and the City of Culver City Planning Division, Building Safety Division, Fire Department, Engineering Division, and the Finance Department's Business Tax Division.
- G. Outdoor Dining License Agreements are not transferable, delegable or assignable. In the event of a transfer of the business, the transferee shall apply to the City Engineer for a new License Agreement prior to the effective date of the transfer.
- H. Upon termination of the Outdoor Dining License Agreement, the licensee shall immediately remove the barriers around the outdoor dining area, return the sidewalk to its original condition or a condition deemed acceptable by City Engineer, and remove all personal property, furnishings, and equipment from the sidewalk.

II. APPLICATION AND RENEWAL PROCEDURE

A. Application Procedure

1. A Sidewalk Café Application Packet for an Outdoor Dining License Agreement may be obtained from, and must be submitted to, the Culver City Engineering Division of the Public Works Department.
2. A Sidewalk Café Application Packet, when submitted, shall include all necessary exhibits. The required seating layout plans shall be drawn to scale in an 8 1/2 inch by 11 inch format.
3. An application fee in an amount determined by resolution of the City Council shall be paid at the time the application is submitted to the Engineering Division. Application fees shall be prorated to reflect payment in full for the remaining months of the calendar year and the month during which the Outdoor Dining License Agreement is to become effective.
4. The Applicant (Licensee) shall obtain and maintain in force during the life of the Outdoor Dining License Agreement comprehensive general liability, broad form property damage and blanket contractual liability insurance in a combined single limit amount, per claim and aggregate, of at least one million dollars (\$1,000,000) covering the applicant's operations on the sidewalk. Such insurance shall name, on a Special Endorsement form, the City, its elected officials, appointed boards, officers, agents and employees as additionally insured. A Certificate of Insurance shall contain provisions that prohibit cancellation, modification, or lapse without thirty (30) days prior written notice to the City. Both the Certificate of Insurance and the completed standard Special Endorsement form shall be submitted with the completed application for an Outdoor Dining License Agreement. Failure to maintain general liability insurance is grounds for revocation of permit.
5. The Applicant (Licensee) shall obtain and maintain in force for the life of the Outdoor Dining License Agreement Worker's Compensation insurance with statutory limits, and employer's liability insurance with limits of not less than one million dollars (\$1,000,000) per accident.
6. A maintenance deposit, in an amount determined by the City Engineer to be adequate to pay for the replacement of the sidewalk paving and any fixtures within the outdoor dining area, shall be paid to the City at the time the Outdoor Dining License Agreement is executed. It is the responsibility of the Licensee to maintain sidewalk paving and fixtures within the outdoor dining area in the condition they are in at the time of licensing. The Licensee shall be responsible for any repairs required as a result of the Licensee's use of the area. Upon termination of the License Agreement and inspection of the paving and fixtures by the Engineering Division, the deposit shall be refunded to the Licensee less any offset for repairs.

7. Engineering Division staff shall obtain the concurrence of all applicable City staff including, but not limited to, the City Attorney's Office and Planning Division before approving any Outdoor Dining License Agreement. Engineering staff shall attempt in good faith to assist the applicant in resolving any problems with the application.
8. The Outdoor Dining License Agreement shall not become effective until the license agreement is signed by all parties, including the property owner, all required documents and exhibits are submitted to the Engineering Division, and all monies due are paid to the City.
9. Only after the Licensee has received a copy of the executed license agreement and after all of the above required application procedures are completed to the satisfaction of the Engineering Division shall any construction of the subject outdoor dining area or any work in the public right-of-way begin. All work within the public right-of-way related to the outdoor dining area shall be in accordance with the approved license agreement. Once all work has been completed, the Licensee shall request a final inspection from the Engineering Division. Only after having received approval of a final inspection shall the Licensee allow public access to the subject outdoor dining area. Said outdoor dining area shall be permanently maintained consistent with the terms of the license agreement.

B. Renewal Procedure

1. Outdoor Dining License Agreements shall expire on December 31st of each calendar year. Annual renewal fees for licenses shall be paid on a monthly basis, prorated over ten payments beginning on March 1, 2009 for 2009 licenses, and in twelve monthly payments commencing January 1, 2010, and continuing annually thereafter, due by the first day of each month. Late payments shall be subject to penalties of 20 percent of the total amount due. Failure to pay monthly fees in full within ten (10) days of the due date may result in suspension or revocation of the Outdoor Dining License Agreement as authorized in Section VII(C).
2. It shall be the Licensee's responsibility to submit all annual renewal forms and monthly payments no later than the due date stipulated.

III. DESIGN STANDARDS

The following design standards shall apply to any outdoor dining area within the public right-of-way:

A. Sidewalk

As used herein, pedestrian path or pedestrian passageway means a continuous obstruction-free sidewalk area, paved to City standards, between the outside

boundary of the dining area and any obstruction, including but not limited to parking meters, street trees, landscaping, street lights, bus benches, public art, and curb lines.

1. In the Downtown Zone (CD), the barriers (or the outermost boundary of the permitted dining area in the absence of barriers) shall be a minimum eight foot (8'-0") distance from the nearest street curb, with a minimum four foot (4'-0") wide unobstructed pedestrian passageway. Said barrier to curb distance may be reduced if both the City Engineer and the Community Development Director or designee determines there are unique circumstances along the subject street frontage, but at no time shall the pedestrian passageway be less than four feet (4'-0") in width.
2. For all areas outside of the Downtown Zone (CD), at no time shall the pedestrian passageway be less than four feet (4'-0") in width.
3. The outdoor dining area shall be accessible to the disabled in accordance with ADA standards. The buildings adjacent to the outdoor dining area shall maintain building egress as defined by the Uniform Building Code and State of California Title 24 Disabled Access Standards. Disabled access standards may be incorporated into the Outdoor Dining License Agreement.

B. Dining Area

1. The maximum dimensions of an outdoor dining area shall be limited as follows:
 - a. The outdoor dining area shall not exceed the width of the tenant space along the street-facing property line.
 - b. When an outdoor dining area is located on a corner, the outdoor dining area shall not be permitted within five feet (5'-0") of the corner of the building along both frontages. When an outdoor dining area is located adjacent to a driveway or an alley, the outdoor dining area shall not be permitted within five feet (5'-0") of the driveway or alley. These requirements may be modified at the discretion of the City Engineer in locations where the sidewalk adjacent to the proposed outdoor dining area is wider than usual or where the perimeter of the building has an unusual configuration.
 - c. The final configuration of the outdoor dining area shall be subject to approval by the City Engineer as recommended by the Community Development Director or designee, who shall consider public safety and municipal code compliance relative to the specific location.
2. The outdoor dining area shall only contain tables, chairs, umbrellas or other weather protection devices, planters, trash receptacles, stanchions or other approved barriers, heaters and menu boards.

3. Establishments that serve alcoholic beverages in the outdoor dining area shall provide a physical barrier that meets the requirements of this document and of the Alcoholic Beverage Control Board (it is the responsibility of the applicant to research and verify design compliance with the Alcoholic Beverage Control Board prior to submitting an application for an Outdoor Dining License Agreement).

C. Parking

Applicants shall submit a parking plan consistent with the CCMC.

D. Grade

All portions of the outdoor dining area shall be fully compliant with the Building Code and shall be located at the same elevation as the adjoining public right-of-way unless otherwise expressly approved by the City Engineer.

E. Barriers

No barrier shall be required if the applicant proposes to limit the outdoor dining area to one row of tables and chairs abutting the wall of the establishment and if no alcohol will be served. Chairs must remain parallel to the building. The permitted size of the outdoor dining area shall be determined by measuring from the building to the outside table edge and from four feet (4'-0") beyond the outermost table edges in a straight line parallel to the building. All other clearances, standards and restrictions in this Section (III) shall apply.

Unless subject to the above conditions, outdoor dining areas shall be surrounded by a physical barrier conforming to the following:

1. Barriers shall conform to the City Engineer's installation standards and be removable. Barriers need not be removed each evening, but shall be capable of being removed, if need be, through the use of recessed sleeves and posts, or by wheels that can be locked into place, or by other such means as will allow removal if necessary.
2. Any modification(s) to the surface of public sidewalks, such as borings for recessed sleeves, shall be approved in advance by the City Engineer.
3. Barriers shall not exceed three feet-six inches (3'-6") in height.
4. Barriers shall not enclose any handicapped-use ramp or corresponding threshold, street tree or tree well, street light or other improvement within the public right-of-way with the exception of a pull box and/or vault cover as may be permitted by the City Engineer or applicable public utility.

5. Barriers shall not enclose any historic plaque, public art or similar improvement unless deemed acceptable by the City's Public Art and Historic Preservation Coordinator and a clear continuous pedestrian pathway not less than four feet (4'-0") in width is provided to and from such improvements and the edge of the outdoor dining area.
6. Barriers shall be of a wrought iron, metal, wooden, open rail and/or metal cable design.
7. Barriers shall be of a color consistent with or complementary to the subject building facade.
8. Signage or lighting elements attached to the barrier shall be prohibited.
9. Other barrier materials and components (i.e., landscape planters) may be used if deemed acceptable by both the City Engineer and the Community Development Director.
10. The use of any plastic, fabric or other material to further enclose the outdoor dining area shall be prohibited with the exception of wind and/or sun screens as described in Section G below.

F. Furniture, Lighting and Signs

The furniture and other equipment to be used within the outdoor dining area shall be as follows:

1. The design, materials, and colors used for chairs, tables, umbrellas, trash receptacles and other fixtures shall be of a uniform design, not include any lettering or graphics and should complement the architectural style and colors of the building facade and any street furniture.
2. Umbrellas shall not project beyond the barriers of the outdoor dining area.
3. One (1) free-standing menu board may be displayed, which shall have no more than two (2) faces with a total surface area of six (6) square feet of area per face, and shall not be placed higher than five feet (5'-0") above the sidewalk. Menu boards shall not be placed outside of the approved outdoor dining area. Sandwich-board displays shall be prohibited.
4. Portable heaters or wall mounted heaters shall be of a uniform design and color, shall not project beyond the physical limits of the outdoor dining area, and require written approval by the Fire Marshal prior to placement within the outdoor dining area.
5. All exterior lighting shall be directed onto the subject site and be of a maximum height and fixed in such direction as to not impact abutting uses and traffic.

6. Lighting fixtures shall be either wall mounted or free standing and shall be of a uniform design and color.
7. Lighting fixtures in outdoor dining areas require an electrical permit from the Building Safety Division and shall be installed by a licensed electrician.

G. Awnings

Awnings are not included in the Outdoor Dining License Agreement, but require a permit from the Community Development Building Safety Division and must meet all Building Safety Division and Planning Division requirements. The installation of awnings within outdoor dining areas shall be permitted as follows:

1. Awnings must be attached to the building facade.
2. Awning support elements attached onto the top of sidewalk shall be prohibited.
3. The design, materials, and colors used for awnings shall be of a uniform design and solid color, and should complement the architectural style and colors of the building facade and street furniture.
4. Wind and/or sun screens attached to an awning may be permitted, but are limited to a durable clear plastic material devoid of any patterns, markings and/or text, and must be constructed in such manner as to be easily detached through the use of grommets, zippers, or other quick-release fastening devices.
5. Signage, if provided, shall be as permitted in the CCMC and be subject to a sign permit from the Planning Division prior to installation.

H. Landscaping

The use of landscaping within the outdoor dining area is encouraged either as part of the barrier or within the outdoor dining area. Said landscaping shall be provided as follows:

1. Landscape elements shall not exceed three feet six inches (3'-6") in height (i.e., landscaping and planter box heights combined) measured from the top of sidewalk, and shall not project beyond the physical limits of the outdoor dining area.
2. Landscaping elements and plants shall be of species absent of any thorns or other components that may be harmful to pedestrians.
3. Planter boxes, if used, shall be uniform in size and shape and be of a color consistent with or complementary to the subject building facade. Potted plants

shall have saucers or other suitable systems to retain seepage and be elevated to allow for air flow of at least one inch (1") between saucer and sidewalk.

4. Landscape elements shall include use of an irrigation and drainage system as deemed acceptable by the City Engineer that does not drain across any part of the right-of-way or sidewalk.

IV. STANDARDS OF OPERATION

- A. Outdoor dining areas shall be operated in a manner that meets all requirements of the Los Angeles County Health Department and other applicable regulations.
- B. Outdoor dining areas shall be continuously supervised by management. Patrons are prohibited from disturbing customers or passersby on the adjacent right-of-way by loud, boisterous, and unreasonable noise, offensive words or disruptive behavior.
- C. Restaurant management shall keep the outdoor dining area clear of litter, food scraps, and soiled dishes and utensils at all times. Trash receptacles shall be provided in outdoor dining areas used for consuming take-out items.
- D. The applicant shall be responsible for maintaining the public right-of-way adjacent to the outdoor dining area so as to keep it free of litter, including any curbside and onsite parking area.
- E. At the end of each business day, establishments are required to clean (sweep and mop) the area in and around the outdoor dining area and remove the debris to a closed receptacle. No debris shall be swept, washed, or blown into the sidewalk, gutter or street.
- F. If disposable materials are used, the establishment shall comply with all applicable City recycling programs.
- G. Plants shall be maintained and replanted as needed to maintain a vibrant appearance.
- H. Awnings and umbrellas shall be washed whenever dirty and a minimum of twice per year.
- I. Unamplified musical instruments or sound reproduction systems are permitted in outdoor dining areas, but shall be maintained at sufficiently low volumes so as not to unduly intrude on neighboring businesses, residents, or users of the public right-of-way beyond the outdoor dining area. Licensees must maintain in good standing any entertainment permit required by the City.

- J. Sale of alcoholic beverages in outdoor dining areas shall comply with Section 17.400.015 of the CCMC.

V. NON-CONFORMING USES

Existing outdoor dining areas in operation prior to the effective date of these standards via a valid Outdoor Dining License Agreement may stay in place in their existing format for as long as the license agreement is maintained in valid condition. Thereafter, the following shall be required:

- A. For those existing locations where the current Licensee is seeking approval of an extension to a lapsed License Agreement, all improvements not in compliance with these new standards shall be modified at the sole cost to the current Licensee and said extension to the current License Agreement shall not be extended until written confirmation has been issued by the City Engineer and Community Development Director or designee as to the completion of all required modifications; and
- B. For those existing locations where a new Licensee is seeking approval of a new License Agreement, all improvements not in compliance with these new standards shall be modified at the sole cost to the new Licensee and said new License Agreement shall not be issued until written confirmation has been issued by the City Engineer and Community Development Director or designee as to the completion of all required modifications.

VI. MODIFICATIONS AND EXTENSIONS

A Licensee may submit to the Engineering Division an application to either modify and/or extend an existing Outdoor Dining License Agreement as follows:

A. Modifications to Existing Outdoor Dining License Agreements

No modification and/or change to any component of an approved License Agreement shall occur unless the Licensee has submitted a prior written request to the City Engineer outlining the proposed modification(s) with all applicable revised documents, attachments and fees. Only after said modification(s) have been approved by the City Engineer and all required revision(s) to the License Agreement and/or the subject exhibits and payment of applicable fees have been completed to the satisfaction of the Engineering Division shall said modification(s) be performed.

B. Extensions to Existing Outdoor Dining License Agreements

Prior to expiration of the initial term of approval, subsequent one (1) year extensions may be considered by the City following the Licensee's filing with the

Engineering Division for such extension request – with all required updated forms, attachments and fees – no less than thirty (30) days prior to the then current License Agreement expiration date. All terms and conditions of the current License Agreement shall be subject to review and revision as may be deemed appropriate by the City Engineer including, but not limited to, the following:

1. The length and depth of the outdoor dining area;
2. The clearance width of the abutting public sidewalk;
3. The public improvements located within the outdoor dining area;
4. The location, type and number of components within the outdoor dining area (i.e., barricade, tables, chairs, umbrellas, heaters and landscaping); and,
5. The amount of insurance coverage, outdoor dining license fee, maintenance deposit, and all other fees either existing and/or to be established in the future by applicable City Council action may be increased.

VII.ENFORCEMENT

- A. All plans, permits and conditions of approval for the outdoor dining area approved by the City shall be kept on the premises at all times and shall be produced for inspection immediately upon request by officers, agents or inspectors of the Enforcement Services Division, Planning Division, Engineering Division, Building Safety Division, Police Department, or any other governmental enforcement agency.
- B. Notwithstanding the allowance to construct private improvements within the public right-of-way via these outdoor dining standards, the tenant and/or property owner shall provide the City and all its representatives with reasonable and immediate access to any part of the outdoor dining area while in the course of conducting official city business.
- C. Notice of violation of the outdoor dining design standards, standards of operation, or renewal procedure shall be made in writing to the Licensee by any Code Enforcement Officer, Public Works Inspector, or Building Inspector of the City. A copy of the notice shall be filed with the City Engineer. The Licensee shall immediately cure the violation upon receipt of notice. If the violation is not cured within ten (10) days after issuance of the notice to the Licensee, the City Engineer may suspend or revoke the License Agreement.
- D. The City retains the right to revoke an Outdoor Dining License Agreement upon thirty (30) days notice, regardless of compliance with these provisions.

Attachment 2

RESOLUTION NO. 2008-R073

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CULVER CITY, CALIFORNIA, ADOPTING THE NEW OUTDOOR DINING STANDARDS AND PROCEDURES AND RESCINDING RESOLUTION NO. 96-R008.

WHEREAS, the City Council has enacted procedures in Chapter 9.08 of the Culver City Municipal Code to permit the use of City sidewalks for outdoor dining under certain circumstances; and

WHEREAS, the Municipal Code requires the City Council to establish standards and procedures for the design and operation of outdoor dining areas by adoption of a Resolution; and

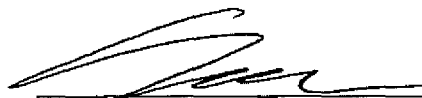
WHEREAS, the City Council desires to update these standards and procedures.

NOW, THEREFORE, the City Council of the City of Culver City, California, DOES HEREBY RESOLVE as follows:

1. The Outdoor Dining Standards and Procedures, attached hereto as Exhibit A and incorporated herein by reference, are hereby approved and shall be effective on the date of the adoption of this Resolution.

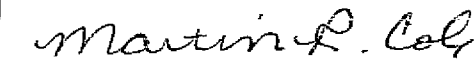
2. Resolution No. 96-R008 is hereby rescinded.

Approved and Adopted this 3rd day of November, 2008.


D. SCOTT MAL SIN, Mayor

ATTEST:

APPROVED AS TO FORM:



Martin Cole, City Clerk

A08-00438

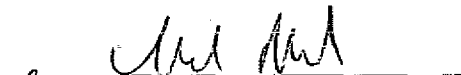

for Carol Schwab, City Attorney

Exhibit A

OUTDOOR DINING STANDARDS AND PROCEDURES ON THE PUBLIC RIGHT-OF-WAY

November 04, 2008

**PUBLIC WORKS DEPARTMENT / Engineering Division
and
COMMUNITY DEVELOPMENT DEPARTMENT / Planning Division**

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I. INTRODUCTION

- A. An outdoor dining area is a place on the public sidewalk where patrons may consume food and/or beverages provided by an adjacent food service establishment. Such establishments may either provide table service in the outdoor dining area or sell take-out items consumed in the outdoor dining area.
- B. The Outdoor Dining Standards and Procedures are intended to encourage appropriate outdoor dining activities that will help create and maintain a dynamic business area that is of benefit to the customer, the business, and the City. Use of the public right-of-way for outdoor dining activities may only occur pursuant to an Outdoor Dining License Agreement. As provided in Section 9.08.035(C) of the Culver City Municipal Code, the City Engineer is authorized to approve an Outdoor Dining License Agreement application and to execute an Outdoor Dining License Agreement on behalf of the City. As a revocable, annually-renewed permit process, the Outdoor Dining License Agreement is intended to be made available to restaurants – and other select commercial uses citywide as may be approved by the City Engineer and as recommended by the Community Development Director or designee – so as to increase the floor area of their business by placing tables, chairs and other related improvements within the adjoining public right-of-way provided the standards contained herein are maintained in addition to all other applicable rules and regulations as may be listed in the Culver City Municipal Code (CCMC).
- C. These standards and procedures regulate the design and operation of outdoor dining areas in the public right-of-way in Culver City and do not apply to outdoor dining on private property. In addition, they do not provide information on all government agency requirements for starting a new restaurant or expanding an existing one. Business owners must secure the appropriate licenses and permits from the State Alcoholic Beverage Control Board, Los Angeles County Health Department, and the City of Culver City Planning Division, Building Safety Division, Fire Department, Engineering Division, and the Finance Department's Business Tax Division.
- G. Outdoor Dining License Agreements are not transferable, delegable or assignable. In the event of a transfer of the business, the transferee shall apply to the City Engineer for a new License Agreement prior to the effective date of the transfer.
- H. Upon termination of the Outdoor Dining License Agreement, the licensee shall immediately remove the barriers around the outdoor dining area, return the sidewalk to its original condition or a condition deemed acceptable by City Engineer, and remove all personal property, furnishings, and equipment from the sidewalk.

II. APPLICATION AND RENEWAL PROCEDURE

A. Application Procedure

1. A Sidewalk Café Application Packet for an Outdoor Dining License Agreement may be obtained from, and must be submitted to, the Culver City Engineering Division of the Public Works Department.
2. A Sidewalk Café Application Packet, when submitted, shall include all necessary exhibits. The required seating layout plans shall be drawn to scale in an 8 1/2 inch by 11 inch format.
3. An application fee in an amount determined by resolution of the City Council shall be paid at the time the application is submitted to the Engineering Division. Application fees shall be prorated to reflect payment in full for the remaining months of the calendar year and the month during which the Outdoor Dining License Agreement is to become effective.
4. The Applicant (Licensee) shall obtain and maintain in force during the life of the Outdoor Dining License Agreement comprehensive general liability, broad form property damage and blanket contractual liability insurance in a combined single limit amount, per claim and aggregate, of at least one million dollars (\$1,000,000) covering the applicant's operations on the sidewalk. Such insurance shall name, on a Special Endorsement form, the City, its elected officials, appointed boards, officers, agents and employees as additionally insured. A Certificate of Insurance shall contain provisions that prohibit cancellation, modification, or lapse without thirty (30) days prior written notice to the City. Both the Certificate of Insurance and the completed standard Special Endorsement form shall be submitted with the completed application for an Outdoor Dining License Agreement. Failure to maintain general liability insurance is grounds for revocation of permit.
5. The Applicant (Licensee) shall obtain and maintain in force for the life of the Outdoor Dining License Agreement Worker's Compensation insurance with statutory limits, and employer's liability insurance with limits of not less than one million dollars (\$1,000,000) per accident.
6. A maintenance deposit, in an amount determined by the City Engineer to be adequate to pay for the replacement of the sidewalk paving and any fixtures within the outdoor dining area, shall be paid to the City at the time the Outdoor Dining License Agreement is executed. It is the responsibility of the Licensee to maintain sidewalk paving and fixtures within the outdoor dining area in the condition they are in at the time of licensing. The Licensee shall be responsible for any repairs required as a result of the Licensee's use of the area. Upon termination of the License Agreement and inspection of the paving and fixtures by the Engineering Division, the deposit shall be refunded to the Licensee less any offset for repairs.

7. Engineering Division staff shall obtain the concurrence of all applicable City staff including, but not limited to, the City Attorney's Office and Planning Division before approving any Outdoor Dining License Agreement. Engineering staff shall attempt in good faith to assist the applicant in resolving any problems with the application.
8. The Outdoor Dining License Agreement shall not become effective until the license agreement is signed by all parties, including the property owner, all required documents and exhibits are submitted to the Engineering Division, and all monies due are paid to the City.
9. Only after the Licensee has received a copy of the executed license agreement and after all of the above required application procedures are completed to the satisfaction of the Engineering Division shall any construction of the subject outdoor dining area or any work in the public right-of-way begin. All work within the public right-of-way related to the outdoor dining area shall be in accordance with the approved license agreement. Once all work has been completed, the Licensee shall request a final inspection from the Engineering Division. Only after having received approval of a final inspection shall the Licensee allow public access to the subject outdoor dining area. Said outdoor dining area shall be permanently maintained consistent with the terms of the license agreement.

B. Renewal Procedure

1. All Outdoor Dining License Agreements shall expire on December 31st of each calendar year. Renewal fees shall be due in full no later than the last day in February of each year. Late payments shall be delinquent and are subject to late payment penalties as prescribed by resolution of the City Council.
2. It shall be the Licensee's responsibility to submit renewal form(s) and payment in full.

III. DESIGN STANDARDS

The following design standards shall apply to any outdoor dining area within the public right-of-way:

A. Sidewalk

As used herein, pedestrian path or pedestrian passageway means a continuous obstruction-free sidewalk area, paved to City standards, between the outside boundary of the dining area and any obstruction, including but not limited to parking meters, street trees, landscaping, street lights, bus benches, public art, and curb lines.

1. In the Downtown Zone (CD), the barriers (or the outermost boundary of the permitted dining area in the absence of barriers) shall be a minimum eight foot (8'-0") distance from the nearest street curb, with a minimum four foot (4'-0") wide unobstructed pedestrian passageway. Said barrier to curb distance may be reduced if both the City Engineer and the Community Development Director or designee determines there are unique circumstances along the subject street frontage, but at no time shall the pedestrian passageway be less than four feet (4'-0") in width.
2. For all areas outside of the Downtown Zone (CD), at no time shall the pedestrian passageway be less than four feet (4'-0") in width.
3. The outdoor dining area shall be accessible to the disabled in accordance with ADA standards. The buildings adjacent to the outdoor dining area shall maintain building egress as defined by the Uniform Building Code and State of California Title 24 Disabled Access Standards. Disabled access standards may be incorporated into the Outdoor Dining License Agreement.

B. Dining Area

1. The maximum dimensions of an outdoor dining area shall be limited as follows:
 - a. The outdoor dining area shall not exceed the width of the tenant space along the street-facing property line.
 - b. When an outdoor dining area is located on a corner, the outdoor dining area shall not be permitted within five feet (5'-0") of the corner of the building along both frontages. When an outdoor dining area is located adjacent to a driveway or an alley, the outdoor dining area shall not be permitted within five feet (5'-0") of the driveway or alley. These requirements may be modified at the discretion of the City Engineer in locations where the sidewalk adjacent to the proposed outdoor dining area is wider than usual or where the perimeter of the building has an unusual configuration.
 - c. The final configuration of the outdoor dining area shall be subject to approval by the City Engineer as recommended by the Community Development Director or designee, who shall consider public safety and municipal code compliance relative to the specific location.
2. The outdoor dining area shall only contain tables, chairs, umbrellas or other weather protection devices, planters, trash receptacles, stanchions or other approved barriers, heaters and menu boards.
3. Establishments that serve alcoholic beverages in the outdoor dining area shall provide a physical barrier that meets the requirements of this document and of the Alcoholic Beverage Control Board (it is the

responsibility of the applicant to research and verify design compliance with the Alcoholic Beverage Control Board prior to submitting an application for an Outdoor Dining License Agreement).

C. Parking

Applicants shall submit a parking plan consistent with the CCMC.

D. Grade

All portions of the outdoor dining area shall be fully compliant with the Building Code and shall be located at the same elevation as the adjoining public right-of-way unless otherwise expressly approved by the City Engineer.

E. Barriers

No barrier shall be required if the applicant proposes to limit the outdoor dining area to one row of tables and chairs abutting the wall of the establishment and if no alcohol will be served. Chairs must remain parallel to the building. The permitted size of the outdoor dining area shall be determined by measuring from the building to the outside table edge and from four feet (4'-0") beyond the outermost table edges in a straight line parallel to the building. All other clearances, standards and restrictions in this Section (III) shall apply.

Unless subject to the above conditions, outdoor dining areas shall be surrounded by a physical barrier conforming to the following:

1. Barriers shall conform to the City Engineer's installation standards and be removable. Barriers need not be removed each evening, but shall be capable of being removed, if need be, through the use of recessed sleeves and posts, or by wheels that can be locked into place, or by other such means as will allow removal if necessary.
2. Any modification(s) to the surface of public sidewalks, such as borings for recessed sleeves, shall be approved in advance by the City Engineer.
3. Barriers shall not exceed three feet-six inches (3'-6") in height.
4. Barriers shall not enclose any handicapped-use ramp or corresponding threshold, street tree or tree well, street light or other improvement within the public right-of-way with the exception of a pull box and/or vault cover as may be permitted by the City Engineer or applicable public utility.
5. Barriers shall not enclose any historic plaque, public art or similar improvement unless deemed acceptable by the City's Public Art and Historic Preservation Coordinator and a clear continuous pedestrian pathway not less than four feet (4'-0") in width is provided to and from such improvements and the edge of the outdoor dining area.

6. Barriers shall be of a wrought iron, metal, wooden, open rail and/or metal cable design.
7. Barriers shall be of a color consistent with or complementary to the subject building facade.
8. Signage or lighting elements attached to the barrier shall be prohibited.
9. Other barrier materials and components (i.e., landscape planters) may be used if deemed acceptable by both the City Engineer and the Community Development Director.
10. The use of any plastic, fabric or other material to further enclose the outdoor dining area shall be prohibited with the exception of wind and/or sun screens as described in Section G below.

F. Furniture, Lighting and Signs

The furniture and other equipment to be used within the outdoor dining area shall be as follows:

1. The design, materials, and colors used for chairs, tables, umbrellas, trash receptacles and other fixtures shall be of a uniform design, not include any lettering or graphics and should complement the architectural style and colors of the building facade and any street furniture.
2. Umbrellas shall not project beyond the barriers of the outdoor dining area.
3. One (1) free-standing menu board may be displayed, which shall have no more than two (2) faces with a total surface area of six (6) square feet of area per face, and shall not be placed higher than five feet (5'-0") above the sidewalk. Menu boards shall not be placed outside of the approved outdoor dining area. Sandwich-board displays shall be prohibited.
4. Portable heaters or wall mounted heaters shall be of a uniform design and color, shall not project beyond the physical limits of the outdoor dining area, and require written approval by the Fire Marshal prior to placement within the outdoor dining area.
5. All exterior lighting shall be directed onto the subject site and be of a maximum height and fixed in such direction as to not impact abutting uses and traffic.
6. Lighting fixtures shall be either wall mounted or free standing and shall be of a uniform design and color.
7. Lighting fixtures in outdoor dining areas require an electrical permit from the Building Safety Division and shall be installed by a licensed electrician.

G. Awnings

Awnings are not included in the Outdoor Dining License Agreement, but require a permit from the Community Development Building Safety Division and must meet all Building Safety Division and Planning Division requirements. The installation of awnings within outdoor dining areas shall be permitted as follows:

1. Awnings must be attached to the building facade.
2. Awning support elements attached onto the top of sidewalk shall be prohibited.
3. The design, materials, and colors used for awnings shall be of a uniform design and solid color, and should complement the architectural style and colors of the building facade and street furniture.
4. Wind and/or sun screens attached to an awning may be permitted, but are limited to a durable clear plastic material devoid of any patterns, markings and/or text, and must be constructed in such manner as to be easily detached through the use of grommets, zippers, or other quick-release fastening devices.
5. Signage, if provided, shall be as permitted in the CCMC and be subject to a sign permit from the Planning Division prior to installation.

H. Landscaping

The use of landscaping within the outdoor dining area is encouraged either as part of the barrier or within the outdoor dining area. Said landscaping shall be provided as follows:

1. Landscape elements shall not exceed three feet six inches (3'-6") in height (i.e., landscaping and planter box heights combined) measured from the top of sidewalk, and shall not project beyond the physical limits of the outdoor dining area.
2. Landscaping elements and plants shall be of species absent of any thorns or other components that may be harmful to pedestrians.
3. Planter boxes, if used, shall be uniform in size and shape and be of a color consistent with or complementary to the subject building facade. Potted plants shall have saucers or other suitable systems to retain seepage and be elevated to allow for air flow of at least one inch (1") between saucer and sidewalk.
4. Landscape elements shall include use of an irrigation and drainage system as deemed acceptable by the City Engineer that does not drain across any part of the right-of-way or sidewalk.

IV. STANDARDS OF OPERATION

- A. Outdoor dining areas shall be operated in a manner that meets all requirements of the Los Angeles County Health Department and other applicable regulations.
- B. Outdoor dining areas shall be continuously supervised by management. Patrons are prohibited from disturbing customers or passersby on the adjacent right-of-way by loud, boisterous, and unreasonable noise, offensive words or disruptive behavior.
- C. Restaurant management shall keep the outdoor dining area clear of litter, food scraps, and soiled dishes and utensils at all times. Trash receptacles shall be provided in outdoor dining areas used for consuming take-out items.
- D. The applicant shall be responsible for maintaining the public right-of-way adjacent to the outdoor dining area so as to keep it free of litter, including any curbside and onsite parking area.
- E. At the end of each business day, establishments are required to clean (sweep and mop) the area in and around the outdoor dining area and remove the debris to a closed receptacle. No debris shall be swept, washed, or blown into the sidewalk, gutter or street.
- F. If disposable materials are used, the establishment shall comply with all applicable City recycling programs.
- G. Plants shall be maintained and replanted as needed to maintain a vibrant appearance.
- H. Awnings and umbrellas shall be washed whenever dirty and a minimum of twice per year.
- I. Unamplified musical instruments or sound reproduction systems are permitted in outdoor dining areas, but shall be maintained at sufficiently low volumes so as not to unduly intrude on neighboring businesses, residents, or users of the public right-of-way beyond the outdoor dining area. Licensees must maintain in good standing any entertainment permit required by the City.
- J. Sale of alcoholic beverages in outdoor dining areas shall comply with Section 17.400.015 of the CCMC.

V. NON-CONFORMING USES

Existing outdoor dining areas in operation prior to the effective date of these standards via a valid Outdoor Dining License Agreement may stay in place in their existing format for as long as the license agreement is maintained in valid condition. Thereafter, the following shall be required:

- A. For those existing locations where the current Licensee is seeking approval of an extension to a lapsed License Agreement, all improvements not in compliance with these new standards shall be modified at the sole cost to the current Licensee and said extension to the current License Agreement shall not be extended until written confirmation has been issued by the City Engineer and Community Development Director or designee as to the completion of all required modifications; and
- B. For those existing locations where a new Licensee is seeking approval of a new License Agreement, all improvements not in compliance with these new standards shall be modified at the sole cost to the new Licensee and said new License Agreement shall not be issued until written confirmation has been issued by the City Engineer and Community Development Director or designee as to the completion of all required modifications.

VI. MODIFICATIONS AND EXTENSIONS

A Licensee may submit to the Engineering Division an application to either modify and/or extend an existing Outdoor Dining License Agreement as follows:

A. Modifications to Existing Outdoor Dining License Agreements

No modification and/or change to any component of an approved License Agreement shall occur unless the Licensee has submitted a prior written request to the City Engineer outlining the proposed modification(s) with all applicable revised documents, attachments and fees. Only after said modification(s) have been approved by the City Engineer and all required revision(s) to the License Agreement and/or the subject exhibits and payment of applicable fees have been completed to the satisfaction of the Engineering Division shall said modification(s) be performed.

B. Extensions to Existing Outdoor Dining License Agreements

Prior to expiration of the initial term of approval, subsequent one (1) year extensions may be considered by the City following the Licensee's filing with the Engineering Division for such extension request – with all required updated forms, attachments and fees – no less than thirty (30) days prior to the then current License Agreement expiration date. All terms and conditions of the current License Agreement shall be subject to review and revision as may be deemed appropriate by the City Engineer including, but not limited to, the following:

1. The length and depth of the outdoor dining area;
2. The clearance width of the abutting public sidewalk;
3. The public improvements located within the outdoor dining area;

4. The location, type and number of components within the outdoor dining area (i.e., barricade, tables, chairs, umbrellas, heaters and landscaping); and,
5. The amount of insurance coverage, outdoor dining license fee, maintenance deposit, and all other fees either existing and/or to be established in the future by applicable City Council action may be increased.

VII.ENFORCEMENT

- A. All plans, permits and conditions of approval for the outdoor dining area approved by the City shall be kept on the premises at all times and shall be produced for inspection immediately upon request by officers, agents or inspectors of the Enforcement Services Division, Planning Division, Engineering Division, Building Safety Division, Police Department, or any other governmental enforcement agency.
- B. Notwithstanding the allowance to construct private improvements within the public right-of-way via these outdoor dining standards, the tenant and/or property owner shall provide the City and all its representatives with reasonable and immediate access to any part of the outdoor dining area while in the course of conducting official city business.
- C. Notice of violation of the outdoor dining design standards or standards of operation shall be made in writing to the Licensee by any Code Enforcement Officer, Public Works Inspector, or Building Inspector of the City. A copy of the notice shall be filed with the City Engineer. The Licensee shall immediately cure the violation upon receipt of notice. If the violation is not cured within ten (10) days after issuance of the notice to the Licensee, the City Engineer may suspend or revoke the License Agreement.
- D. The City retains the right to revoke an Outdoor Dining License Agreement upon thirty (30) days notice, regardless of compliance with these provisions.