

RESOLUTION NO. 2021 _____

1
2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
3 CULVER CITY, CALIFORNIA, CONFIRMING THE MARCH 29,
4 2022 FORTY-FIRST SUPPLEMENT TO PUBLIC ORDER: (1)
5 FURTHER EXTENSION OF TEMPORARY USE PERMITS
6 ISSUED DURING THE COVID-19 PANDEMIC TO EXPAND
7 OUTDOOR DINING AND OTHER USES ON CITY SIDEWALKS
8 AND ON CERTAIN CITY ROADWAYS TO AUGUST 31, 2022; (2)
9 FURTHER EXTENSION OF EXISTING TEMPORARY USE
10 PERMITS ISSUED DURING THE COVID-19 PANDEMIC TO
11 EXPAND OUTDOOR DINING ON PRIVATE PROPERTY TO
12 AUGUST 31, 2022; AND (3) EXTENSION OF WAIVER OF
13 OUTDOOR DINING LICENSE FEES AND VALET PARKING
14 LICENSE FEES TO AUGUST 31, 2022, ISSUED BY THE CITY
15 MANAGER, AS DIRECTOR OF EMERGENCY SERVICES,
16 UNDER CITY OF CULVER CITY EMERGENCY AUTHORITY,
17 DUE TO THE COVID-19 PANDEMIC.

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19 **WHEREAS**, pursuant to the authority granted by Culver City Municipal Code
20 (CCMC) Section 3.09.020, on March 14, 2020, the City Manager, as the Director of
21 Emergency Services, issued a Proclamation of Local Emergency due to the Coronavirus
22 (COVID-19) pandemic, which was ratified by the City Council on March 18, 2020 by
23 Resolution No. 2020-R015. Such action followed the Los Angeles County Department of
24 Public Health's (LACDPH) and the Chair of the Board of Supervisor's declarations of a
25 local health emergency and the State of California's declaration of a State of Emergency
26 on March 4, 2020, and the declaration of a National Emergency on March 13, 2020; and

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28 **WHEREAS**, beginning on March 16, 2020, under the authority of CCMC
Section 3.09.020, the City Manager issued an initial Public Order and 41 Supplements to
Public Order, that included at various times business closures, restrictions on non-
essential activities, advising residents they should remain at home, mask and distancing
requirements when around persons not in one's immediate family, capacity requirements
for businesses, as well as refraining from social gatherings, and, at times, closing of

1 indoor portions of non-essential businesses, and most recently, requiring proof of
2 vaccination to enter indoor portions of certain categories of businesses and indoor
3 portions of City facilities; and

4 **WHEREAS**, the First Supplement to Public Order, issued on March 20, 2020,
5 waived outdoor dining fees and valet permit fees for a short period of time, and these
6 waivers were periodically extended through subsequent Orders; and

7 **WHEREAS**, the 16th Supplement to Public Order, issued June 1, 2020,
8 permitted restaurants to expand dining operations outdoors into the public right-of-way, or
9 expand existing outdoor dining facilities further into the public right-of-way (i.e., public
10 sidewalks and streets), all subject to the approval of a Temporary Use Permit (TUP)
11 approved by the Public Works Director/City Engineer; and

12 **WHEREAS**, on May 24, 2021, at the regular City Council public meeting, the
13 City Council extended TUPs for the use of the public right-of-way for expanded outdoor
14 dining and other uses, through Labor Day (September 6, 2021), and further extended the
15 waiver of outdoor dining license fees and valet parking permit fees through that same
16 date; and

17 **WHEREAS**, the 17th Supplement to Public Order, issued June 10, 2020,
18 relaxed certain Zoning Code requirements and permitted restaurants to expand dining
19 operations outdoors on private property, subject to the approval of the Community
20 Development Director and in accordance with the TUP process outlined in Zoning Code
21 Chapter 17.520, and on April 21, 2021, the 36th Supplement to Public Order expanded to
22 the 16th and 17th Supplements to allow bars to apply for TUPs to operate outdoors in the
23 public right of way and on private property; and
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1 **WHEREAS**, on July 15, 2021 the City Manager issued the 37th Supplement to
2 Public Order, extending the TUPs issued by the Public Works Director for the expansion
3 of outdoor dining and other uses on City sidewalks only, through December 31, 2021, and
4 also extended the waiver of outdoor dining license fees and valet parking license fees
5 through that same date; and

6 **WHEREAS**, on December 7, 2021, the City Manager issued the 39th
7 Supplement to Public Order, extending to April 30, 2022 the TUPs issued by the Public
8 Works Director for City sidewalks and for certain areas of the City where roadway TUPs
9 had been issued were not affected by the MOVE Culver City construction, including those
10 in the form of parklets, and areas protected from traffic by City-installed barriers including
11 Main Street, the portion of Culver next to K-ZO Restaurant, the portion of Irving Place
12 next to Rush Street, sections of Washington Boulevard between Hargis Street and Melvil
13 Street and the closed section of Melvil between Washington Boulevard and the alley north
14 of Washington Boulevard; and

15 **WHEREAS**, the extension of TUPs and continued waiver of license fees were
16 actions taken to support business use of outdoor spaces, due to the rapid increase in
17 positive COVID-19 cases following the June 15, 2021 “reopening” of the California
18 economy, the Omicron variant surge in December 2021 and January 2022, and
19 recognition that the public was becoming increasingly reluctant to dine, shop and conduct
20 business indoors; and

21 **WHEREAS**, the Public Orders issued by the City Manager have all been
22 confirmed by the City Council; and

23 **WHEREAS**, while the COVID-19 case rates and transmission rates have
24 continued to decline since the severe Omicron surge in December and January, daily
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1 information published by the LACDPH illustrates the continued community transmission of
2 COVID-19, as well as continued hospitalizations and deaths, and a new subvariant of the
3 Omicron mutation, called B.A.2, which is rising across Europe and in the United States,
4 and has become the dominant variant in California and Los Angeles County; further, there
5 are concerns that persons over age 65 who were vaccinated or boosted earlier in the
6 pandemic may be vulnerable, and both Pfizer and Moderna have received approval of
7 another booster shot for older adults; and
8

9 **WHEREAS**, due to the continuing community transmission of COVID-19 in
10 the country, the state, and the County of Los Angeles, the ongoing concerns about the
11 COVID-19 variants, as well as to aid in the economic recovery of the City's businesses, it
12 is a reasonable and prudent measure to assist the City's businesses to continue to
13 operate outdoors to protect the public health and safety during the ongoing and ever-
14 changing pandemic.
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16 **NOW, THEREFORE**, the City Council of the City of Culver City, California,
17 **DOES HEREBY RESOLVE** as follows:

18 1. Pursuant to CCMC Section 3.09.020.B.1.h(2), the City Council
19 hereby confirms the Forty-First Supplement to Public Order issued by the City
20 Manager, in his capacity as Director of Emergency Services, on March 29, 2022,
21 attached hereto as Exhibit A and incorporated herein by reference.

22 2. The City Council finds that this Resolution is not subject to the
23 requirements of the California Environmental Quality Act (CEQA) pursuant to
24 CEQA guidelines, California Code of Regulations, Title 14, Chapter 3, Section
25 15060(c)(2) [the activity will not result in a direct or reasonably foreseeable
26 indirect physical change in the environment] and Section 15060(c)(3) [the activity
27 is not a project as defined in Section 15378] because it has no potential for
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1 resulting in physical change to the environment, directly or indirectly.

2 3. This Resolution shall take effective immediately upon its adoption.

3 APPROVED and ADOPTED this _____ day of _____ 2022.
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6 _____
7 DR. DANIEL LEE, MAYOR
8 City of Culver City, California

9 ATTEST:

APPROVED AS TO FORM:

10 _____
11 JEREMY BOCCHINO
12 City Clerk

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14 _____
15 HEATHER BAKER
16 City Attorney
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JOHN M. NACHBAR
CITY MANAGER

CITY MANAGER'S OFFICE

CITY OF CULVER CITY

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**Forty-First Supplement to Public Order Under
City of Culver City Emergency Authority**

Issue Date: March 29, 2022

Subject: (1) Further Extension of Temporary Use Permits Issued During the COVID-19 Pandemic to Expand Outdoor Dining and Other Uses on City Sidewalks and on Certain City Roadways to August 31, 2022; (2) Further Extension of Existing Temporary Use Permits Issued During the COVID-19 Pandemic to Expand Outdoor Dining on Private Property to August 31, 2022; and (3) Extension of Waiver of Outdoor Dining License Fees and Valet Parking License Fees to August 31, 2022.

Background of Local Emergency and Authority Granted for the Issuance of Temporary Use Permits and Fee Waivers to Assist Businesses During the Pandemic.

On March 14, 2020, due to the outbreak and spread of the Coronavirus Respiratory Disease (COVID-19), the City Manager, as Director of Emergency Services, issued a Proclamation of Local Emergency, which was ratified by the City Council on March 18, 2020 by Resolution No. 2020-R015. Beginning on March 16, 2020, the City Manager issued a number of public orders, that included at various times business closures, restrictions on non-essential activities, advising residents they should remain at home, mask and distancing requirements when around persons not in one's immediate family, capacity requirements for businesses, as well as requiring that persons refrain from social gatherings, and, at times, closing of indoor portions of non-essential businesses, all consistent with various Executive orders that were issued by the State of California and Health Officer Orders issued by the Los Angeles County Department of Public Health, as well as a number of neighboring communities.

The First Supplement to Public Order, issued on March 20, 2020, waived outdoor dining fees and valet permit fees for a short period of time; the waiver was periodically extended through subsequent orders. The 16th Supplement to Public Order, issued June 1, 2020, permitted restaurants to expand dining operations outdoors into the public right-of-way, or expand existing outdoor dining facilities further into the public right-of-way (i.e., public sidewalks and streets), all subject to the approval of the Public Works Director/City Engineer through the issuance of a Temporary Use Permit (TUP).

The 17th Supplement to Public Order, issued June 10, 2020, relaxed certain Zoning Code requirements and permitted restaurants to expand dining operations outdoors on private property, subject to the approval of the Community Development Director and in

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Issue Date: March 29, 2022

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accordance with the TUP process outlined in Zoning Code Chapter 17.520. On April 21, 2021, the 36th Supplement to Public Order expanded to the 16th and 17th Supplements to allow bars to apply for TUPs to operate outdoors in the public right of way and on private property.

On May 24, 2021, at the regular City Council public meeting, the City Council extended TUPs for the use of the public right-of-way for expanded outdoor dining and other uses, through Labor Day (September 6, 2021). The City Council also extended the waiver of outdoor dining license fees and valet parking permit fees, both of which were expiring June 30, 2021, through that same date.

On July 15, 2021 the City Manager issued the 37th Supplement to Public Order, extending the TUPs issued by the Public Works Director for the expansion of outdoor dining and other uses on City sidewalks only, through December 31, 2021. The waiver of outdoor dining license fees and valet parking license fees were extended through that same date. These actions were taken to support business use of outdoor spaces, due to the rapid increase in positive COVID-19 cases following the June 15, 2021 “reopening” of the California economy, and the recognition that the public was becoming increasingly reluctant to dine, shop and conduct business indoors. Shortly thereafter, TUPs for roadway use were extended administratively until October 31, 2021; the date was selected primarily in response to the MOVE Culver City project construction which began in November 2021 and has since been completed.

On December 7, 2021, the City Manager issued the 39th Supplement to Public Order, extending to April 30, 2022 the TUPs issued by the Public Works Director for City sidewalks and for certain areas of the City where roadway TUPs had been issued were not affected by the MOVE Culver City construction, including those in the form of parklets, and areas protected from traffic by City-installed barriers including Main Street, the portion of Culver next to K-ZO Restaurant, the portion of Irving Place next to Rush Street, sections of Washington Boulevard between Hargis Street and Melvil Street and the closed section of Melvil between Washington Boulevard and the alley north of Washington Boulevard.

While the COVID-19 case rates and transmission rates have continued to decline since the severe Omicron surge in December and January, daily information published by the Los Angeles County Department of Public Health illustrates the continued community transmission of COVID-19, as well as continued hospitalizations and deaths. Additionally, the emergence of a new subvariant of the Omicron mutation, called B.A.2, is rising in Europe and on the U.S. east coast, and has already been detected in California and Los Angeles County and is increasingly become more prevalent. There are concerns that persons over age 65 who were vaccinated or boosted earlier in the pandemic may be vulnerable, and both Pfizer and Moderna have asked the U.S. Food and Drug Administration (FDA) to approve another booster shot for older adults.

Due to the continuing community transmission of COVID-19 in the country, the state, and the County of Los Angeles, the ongoing concerns about the COVID-19 variants, as well

as to aid in the economic recovery of the City's businesses, it is a reasonable and prudent measure to assist the City's businesses to continue to operate outdoors to protect the public health and safety during the ongoing and ever-changing pandemic.

Public Order

By virtue of authority vested in me as the Director of Emergency Services, pursuant to the provisions of CCMC Section 3.09.020.B.1.h(2), to make and issue rules and regulations on matters reasonably related to the protection of persons, property, and the environment as affected by such emergency, I hereby order:

1. TUPs issued by the Public Works Director for the expansion of outdoor dining and other uses on City sidewalks, as set forth in the 16th Supplement and extended pursuant to the 37th and 39th Supplements, are further extended through August 31, 2022.
2. TUPs issued by the Public Works Director for expansion of outdoor dining and other uses in City roadways, in the form of parklets, and in areas protected from traffic by City-installed barriers that were unaffected by the MOVE Culver City construction project, including Main Street, the portion of Culver next to the K-ZO Restaurant, a portion of Irving Place next to Rush Street, and sections of Washington Boulevard between Hargis Street and Melvil Street, are further extended through August 31, 2022, subject to the City's right to terminate or modify the TUPs prior that date, with thirty days written notice to the affected TUP holder.
3. TUPS issued by the Community Development Director for expansion of outdoor dining or for outdoor operations of bars, as set forth in the 17th and 36th Supplements to Public Order, to the extent the expanded outdoor operations are still in existence, and are eligible for or having pending extension determinations, are further extended per the conditions previously approved, through August 31, 2022, subject to the City's right to terminate or modify the TUPs prior that date, with thirty days written notice to the affected TUP holder.
4. The waiver of outdoor dining license fees and valet parking license fees is further extended through August 31, 2022.
5. The City of Culver City will continue to align with the County of Los Angeles Health Officer Orders, including the most recent March 3, 2022 Public Order, and will automatically align with any new or subsequent County of Los Angeles Public Health Order or Directive, except where City Orders are issued with Culver City specific restrictions or requirements.
6. Additional social distancing, infection control, and health and safety measures and guidelines may be imposed at any time, in my sole discretion, in order to ensure the protection of the public's health and safety, and the intent of each and every Public Order is carried out.

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Issue Date: March 29, 2022

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Any violation of this Forty-First Supplement to Public Order may be enforced under the Culver City Municipal Code, which provides for fines not to exceed \$1,000 or imprisonment not to exceed six months. Each individual officer and City official should use their discretion in enforcing this order and always keep the intent of the order in mind. Except as otherwise expressly provided herein, this Forty-First Supplement to Public Order shall be effective immediately and shall remain in effect until superseded, amended, modified, rescinded, or expired by its terms.

Date: March 28, 2022



John M. Nachbar, City Manager
Director of Emergency Services
City of Culver City