

MEETING DATE: **03/01/10**

AGENDA ITEM: Consideration of a Resolution Adopting Storefront
Encroachment Permit Standards and Procedures on the Public Right-of-Way.

ATTACHMENTS

	<u>Pages</u>
1. Excerpted Minutes from City Council meeting of August 10, 2009.	1-2
2. Proposed Resolution R2010-____, adopting Proposed Storefront Encroachment Permit Standards and Procedures (included as Exhibit 'A' to the resolution).	3-10

REGULAR MEETING OF THE
CITY COUNCIL, CITY OF CULVER CITY
CALIFORNIA

August 10, 2009
6:02 p.m.

Call to Order & Roll Call

The meeting of the City Council was called to order at 6:02 p.m.

Present: Andrew Weissman, Mayor
Christopher Armenta, Vice Mayor
D. Scott Malsin, Councilmember
Gary Silbiger, Councilmember

Absent: Micheál O'Leary, Councilmember - excused

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Closed Session

C.

The City Council will adjourn to Closed Session to discuss the following items:

CS-1 Conference with Labor Negotiators

City designated representatives: City Manager Mark Scott, Director of Human Resources Serena Wright

Employee Organization: Culver City Employees Association; Culver City Management Group; Culver City Police Officers Association; Culver City Police Management Group; Culver City Firefighters Local 1927, AFL-CIO; Culver City Fire Management Group

Pursuant to Government Code Section 54957.6

A.

CS-2 Conference with Legal Counsel - Existing Litigation

Re: Community Health Councils, Inc., City of Culver City, et al., v. County of Los Angeles

Case No. BS118018 (Re County Community Standards District for Oil Drilling Operations)

Pursuant to Government Code Section 54956.9(a)

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August 10, 2009

Item A-2**Discussion Regarding Proposed Amendments to Standards and Procedures for Non-Commercial Use of the Public Right-of-Way Adjacent to Businesses**

Glenn Heald, Management Analyst, presented a summary of the material of record.

Discussion ensued between the City Council and staff regarding potential amenities; bicycle racks; and clarification that the intent is a non-commercial use for comfort and aesthetics, not for outdoor dining.

MOVED BY COUNCILMEMBER MALSIN AND SECONDED BY COUNCILMEMBER ARMENTA, THAT THE CITY COUNCIL DIRECT STAFF TO PRESENT TO THE COUNCIL AT A FUTURE MEETING A PROPOSAL FOR A PERMIT PROGRAM TO ALLOW BUSINESSES LIMITED, NON-COMMERCIAL USE OF THE PUBLIC RIGHT-OF-WAY FOR AESTHETIC AND COMFORT PURPOSES.

AYES: Councilmembers Armenta, Malsin, Silbiger, Weissman

NOES: None

ABSTAIN: None

ABSENT: Councilmember O'Leary

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Public Comment for Items Not On the Agenda - continued.

Mayor Weissman invited public participation.

The following member of the audience addressed the City Council:

Tony Pappas expressed concern with potential conflicts of interest with several Councilmembers regarding Item A-2 [Proposed Amendments to Standards and Procedures for Non-Commercial Use of the Public Right of Way Adjacent to Businesses], and objected to businesses allegedly having the free use of the public right of way when the public is not allowed.

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Attachment 2

RESOLUTION NO. 2010-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
CULVER CITY, CALIFORNIA, ESTABLISHING
STOREFRONT ENCROACHMENT PERMIT STANDARDS
AND PROCEDURES FOR USE OF PORTIONS OF THE
PUBLIC RIGHT-OF-WAY.

WHEREAS, the City Council desires to establish standards and procedures
regulating the limited use of portions of the public rights-of-way, for aesthetic and comfort
purposes, by businesses located adjacent to the public rights-of-way.

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

1. The Storefront Encroachment Permit Standards and Procedures on
the Public Right-of-Way, attached hereto as Exhibit A and incorporated herein by
reference, are hereby approved and shall be effective upon adoption of this Resolution.

APPROVED and ADOPTED this _____ day of _____, 2010.

ANDREW WEISSMAN, Mayor

ATTEST:

MARTIN COLE, City Clerk
A10-00059

APPROVED AS TO FORM:

CAROL SCHWAB, City Attorney

STOREFRONT ENCROACHMENT PERMIT
STANDARDS AND PROCEDURES ON THE PUBLIC
RIGHT-OF-WAY

February 23, 2010

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

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I. INTRODUCTION

- A. A Storefront Encroachment Permit is a revocable permit allowing businesses to utilize a limited portion of the public right-of-way in front of their business establishments for purposes of aesthetic improvements and customer convenience including, but not limited to, planters, seating and other items, as approved by the City Engineer, but excluding tables and any items which are affixed or attached to the sidewalk. The Storefront Encroachment Permit Standards are intended to 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 the purposes described herein may only occur pursuant to a Storefront Encroachment Permit issued by Culver City.
- B. The standards and procedures herein regulate the design and operation of Storefront Encroachment areas in the public right-of-way in Culver City and do not apply to any areas on private property.
- C. No signs, display or sale of goods or provision of services are authorized by this form of permit.
- D. In the absence of a dedicated sidewalk, the public right-of-way subject to these standards shall be the roadway directly abutting the business property line.
- E. No modification or destruction of the public right-of-way or structures thereupon is permitted under a Storefront Encroachment Permit.
- F. Storefront Encroachment Permits are not transferable, delegable or assignable. Upon transfer of a business, the transferee must apply for and receive a new Permit prior to use of the sidewalk in front of the business establishment.
- G. It is the responsibility of the Permittee to maintain paving and fixtures within the Storefront Encroachment area in the condition they are in at the time of permit issuance. The Permittee shall be responsible for any repairs to the public right-of-way required as a result of the Permittee's use of the Encroachment Permit area. Upon termination of the Storefront Encroachment Permit, the Permittee shall immediately remove all material from the public right-of-way and return it to its original condition or a condition deemed acceptable by the City Engineer.
- H. These standards pertain only to the incidental uses described herein and do not provide information on all government agency requirements or restrictions for use of the public sidewalk. Business owners must consult all relevant agencies to ensure proper and legal use of the public right-of-way, and secure any necessary licenses, including any required by the City. Permittees must adhere to all other applicable rules and regulations in the Culver City Municipal Code (CCMC).

II. APPLICATION PROCEDURE

- A. A completed Storefront Encroachment Permit Application must be submitted to the Culver City Engineering Division of the Public Works Department, including all exhibits (plans, drawings or photographs) illustrating the proposed aesthetic and comfort improvements.
- B. A non-refundable Permit Issuance Fee, as set forth in the City's 2009-10 User Fees & Charges, as amended, shall be required for a Storefront Encroachment Permit. There is no renewal process or renewal fee.
- C. The Permittee shall obtain and maintain in force during the life of the Storefront Encroachment Permit comprehensive general liability, broad form property damage and blanket contractual liability insurance in amounts and coverage as determined by the City Attorney and specified in the application package. Failure to maintain general liability insurance is grounds for revocation of Permit.
- D. Applicants shall obtain and maintain a valid Culver City Business Tax Certificate (business license) for the duration of the Storefront Encroachment Permit. Failure to maintain a valid business license may result in revocation of the Storefront Encroachment Permit.
- E. Engineering Division staff shall obtain the concurrence of all applicable City staff including, but not limited to, the City Attorney's Office and the Community Development Director, before approving any Storefront Encroachment Permit.
- F. The Storefront Encroachment Permit shall not become effective until all required documents and exhibits are completed and submitted to the Engineering Division, and all required fees associated with the permit application are paid to the City.
- G. Use of the Storefront Encroachment area shall begin only after the Permittee has received a copy of the executed Permit. All use of the sidewalk pursuant to a Storefront Encroachment Permit shall be in accordance with the approved Permit, all applicable provisions of the Culver City Municipal Code and any other applicable City policies.

III. DESIGN STANDARDS

A. Passageway

As used herein, pedestrian path or pedestrian passageway means a continuous obstruction-free public sidewalk area, paved to City standards, between the outside boundary of the Storefront Encroachment 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), all items placed on public sidewalks 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 distance may be reduced subject to approval by the City Engineer as recommended by the Community Development Director if it is determined that 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 Storefront Encroachment area shall be accessible to the disabled in accordance with ADA standards as defined by the Uniform Building Code and State of California Title 24 Disabled Access Standards.
4. In the absence of a dedicated sidewalk, the City Engineer or their designee shall be authorized to consider applications for use of the public right-of-way on a case-by-case basis based upon the public safety, emergency services ingress, egress and passageway, general vehicular traffic, and the compliance of the requested use to the standards contained herein. As part of the permit application procedure for such use, additional approval must be obtained from the Fire Department, Police Department, and any other departments or agencies as deemed appropriate by the City Engineer or their designee, any or all of whom may place additional requirements and/or restrictions upon such use. All other requirements and restrictions of these standards shall apply.

B. Encroachment Area

1. The maximum dimensions of any Storefront Encroachment area shall be limited as follows:
 - a. The Storefront Encroachment area shall not extend more than four feet (4') away from the subject building or property lines toward the curb, and in no case shall extend into the minimum clear pedestrian passageway as described in Section III(A), above.
 - b. The Storefront Encroachment area shall not extend beyond the width or length of that side of Permittee's business premises fronting the public right-of-way containing the involved Storefront Encroachment area.
 - c. When a Storefront Encroachment area is located on a corner, the Storefront Encroachment area shall be a minimum of five feet (5'-0") from the corner of the building along both frontages.
 - d. The final configuration of the Storefront Encroachment area shall be subject to approval by the City Engineer as recommended by the Community Development Director, who shall consider public safety and municipal code compliance relative to the specific location.

2. The Storefront Encroachment area shall contain only those items allowed by the City Engineer.

C. Parking

Issuance of a Storefront Encroachment Permit will not increase the amount of parking which will be required for the Permittee's business establishment.

D. Grade

Raised platforms shall not be allowed within any Storefront Encroachment area.

E. Signs

Except as expressly permitted by and in compliance with the City's Sign Ordinance, signs, posters, advertisements and displays of any type are prohibited in any Storefront Encroachment area.

F. Landscaping

The use of landscaping elements within a Storefront Encroachment area shall be permitted with the following conditions:

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 the public right-of-way, and shall not project beyond the physical limits of the Storefront Encroachment area.
2. Planter boxes, if used, shall have saucers or other suitable systems to retain seepage and shall be elevated to allow for air flow of at least one inch (1") between saucer and the public right-of-way.
3. Landscape elements shall utilize hand watering or above-ground irrigation and have a drainage system as deemed acceptable by the City Engineer. Drainage across any part of the right-of-way is prohibited.

IV. STANDARDS OF OPERATION

- A. Storefront Encroachment areas shall be operated in a manner that meets all requirements of the CCMC and other applicable regulations.
- B. The applicant shall be responsible for maintaining the Storefront Encroachment area clean and free of litter.
- C. Musical instruments or sound reproduction systems are prohibited in Storefront Encroachment areas.
- D. The sale or consumption of alcoholic beverages in Storefront Encroachment areas is prohibited.

- E. No business shall be conducted within any part of any Storefront Encroachment area.

V. ENFORCEMENT

- A. All plans, permits and conditions of approval for the Storefront Encroachment area approved by the City shall be kept on the Permittee's 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, Police Department or any other governmental enforcement agency.
- B. Notwithstanding the allowance to utilize the public right-of-way via a Storefront Encroachment Permit, the tenant and/or property owner shall provide City representatives immediate access to the Storefront Encroachment area whenever they are conducting official city business.
- C. Notice of violation of the Storefront Encroachment design standards or standards of operation shall be made in writing to the Permittee 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 Permittee shall immediately cure the violation upon receipt of notice. If the violation is not cured within five (5) calendar days after issuance of the notice to the Permittee, the City Engineer or their designee may suspend or revoke the Permit. Such notice of violation shall not preclude issuance of citation(s) for violations of the Municipal Code. Multiple violations may result in suspension or revocation of the Permit.
- D. The City retains the right to revoke any Storefront Encroachment Permit upon thirty (30) days notice, regardless of compliance with these provisions.