

RESOLUTION NO. 2022-R _____

**A RESOLUTION OF THE CITY OF CULVER CITY, CALIFORNIA
REVISING OUTDOOR DINING STANDARDS AND
PROCEDURES AND RESCINDING RESOLUTION NO. 2009-
R078**

WHEREAS, the Culver City City Council has enacted procedures in Chapter 9.08 of the Culver City Municipal Code (CCMC) to permit the use of public rights-of-way, including sidewalks and curbside parking spaces, for outdoor dining and other uses; and

WHEREAS, the CCMC requires that the City Council establish standards and procedures for the design and operation of outdoor dining areas by adoption of a resolution; and

WHEREAS, the City Council adopted the current standards and procedures for outdoor dining areas in September, 2009, by adoption of Resolution No. 2009-R078; and

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

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

1. The revised Outdoor Dining Standards and Procedures, attached as Exhibit A and incorporated herein, are hereby adopted and shall be effective on April 11, 2022;
2. The City Council hereby authorizes the Public Works Director/City Engineer ("Director") to interpret, implement and administer the Outdoor Dining program and the Outdoor Dining Standards and Procedures, including the authority to:
 - a. Interpret the provisions of the Outdoor Dining Standards and Procedures; and
 - b. Develop and implement immaterial revisions to the Outdoor Dining Standards and Procedures; and
 - c. Develop forms and procedures for submission of applications; and
 - d. Approve or deny an application; and
 - e. Refer applications to the City Council for review and decision at the Director's sole discretion.
3. Resolution No. 2009-R078 is hereby rescinded.

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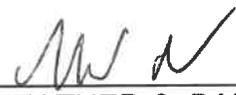
APPROVED and ADOPTED this _____ day of _____ 2022.

DR. DANIEL LEE, Mayor
City of Culver City, California

ATTEST:

APPROVED AS TO FORM:

JEREMY BOCCHINO
City Clerk



 HEATHER S. BAKER
City Attorney

EXHIBIT A

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

April 11, 2022

PUBLIC WORKS DEPARTMENT
Engineering Division

and

COMMUNITY DEVELOPMENT DEPARTMENT
Current 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 that may be consumed in the outdoor dining area.
- B. These 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 Permit and License Agreement (the "Permit"). As provided in Section 9.08.035(C) of the Culver City Municipal Code, the City Engineer is authorized to approve Permits on behalf of the City. As a revocable, annually-renewed permit process, the Permit is intended to be made available to restaurants – and other select commercial uses citywide as may be approved by the Director of Public Works/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 adhered to in addition to all other applicable rules and regulations as may be listed in the Culver City Municipal Code (CCMC).
- C. These Outdoor Dining 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 located 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. Outdoor dining areas may require additional parking for the establishment. Business owners must secure appropriate licenses and permits from the State Alcoholic Beverage Control Board, Los Angeles County Department of Public Health, and the City of Culver City Planning Division, Building Safety Division, Fire Department, Engineering Division, and the Finance Department's Business Tax Division.
- D. Permits are not transferable, delegable or assignable. In the event of a transfer of the business, the transferee shall apply to the Director of Public Works/City Engineer for a new Permit prior to the effective date of the transfer.
- E. Upon termination of the Permit, 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 Director of Public Works/City Engineer, and remove all personal property, furnishings, awnings, canopies, and equipment from the sidewalk.

II. APPLICATION AND RENEWAL PROCEDURE A. Application Procedure

1. An Application Packet to obtain a Permit may be obtained from, and must be submitted to, the Culver City Engineering Division of the Public Works Department.
2. An Application Packet, when submitted, shall include all necessary exhibits. The required plans shall be drawn to scale in an 11 inch by 17 inch format.
3. An application fee, technology fee, sewer fees, issuance fee and the license fee , in amounts determined by resolution of the City Council, shall be paid at the time the application is submitted to the Engineering Division. The first year's Outdoor Dining License Fees shall be prorated for the remaining months of the calendar year and the month during which the Permit is to become effective.
4. The Applicant (Licensee) shall obtain and maintain in force during the life of the 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.
5. The Applicant (or "Licensee") shall obtain and maintain in force for the life of the Permit Worker's Compensation insurance with statutory limits, as specified in the application package. Failure to maintain Worker's Compensation insurance is grounds for revocation of the Permit.
6. A maintenance deposit, in an amount determined by the Director of Public Works/City Engineer to be adequate to recover the cost to replace the sidewalk paving and any fixtures damaged within the outdoor dining area, shall be paid to the City at the time the Permit 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 Permit 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 Permit. Engineering staff shall attempt in good faith to assist the applicant in resolving any problems with their application. Permit shall not become effective until the license agreement is signed by all parties, including the business 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 Permit 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 Permit. Once all work has been completed, the Licensee shall request a final inspection from the Engineering Division. Only after having received approval of the final inspection shall the Licensee allow public access to their outdoor dining area. Licensee shall maintain the outdoor dining area consistent with the terms of their permit.

B. Renewal Procedures

Automatic annual renewal of the Permit shall be accomplished by submitting an updated Certificate of Insurance and paying each year's license fee either in full by January 1st of that year or alternatively, the license fee may be paid in monthly payments, with the first payment made by January 1st of the new year, provided that a Payment Plan Processing Fee in an amount established by Resolution of the City Council is made along with each monthly payment to recover reasonable costs of administering a payment plan. License fees not received on time will incur a Late Payment Fee in an amount established by City Council resolution.

III. DESIGN STANDARDS

Except where noted, 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, streetlights, 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.

Exception: The 8' distance from the nearest curb is replaced with 18" from the nearest curb along the north side of Culver Boulevard from Canfield Avenue to Duquesne Avenue (the "Culver Expansion Area"). The maximum depth of the outdoor dining area available to an Applicant in the Culver Expansion Area is defined as 18" from the curb to the edge of the sidewalk along their building frontage.

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 California 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 Director of Public Works/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 Public Works Director/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 contain only tables, chairs, awnings, canopies, umbrellas or other weather protection devices, planters, trash receptacles, stanchions or other approved barriers, heaters and menu boards.

Exception: The Culver Expansion Area also allows installation of free-standing

tents and shade structures in accordance with section G. Utilities are prohibited to obstruct any entrances or egress paths or to create a hazard such as tripping.

3. Establishments that serve alcoholic beverages in their 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 a Permit).

C. 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 Public Works Director/City Engineer.

D. 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.

Exceptions: In the Culver Expansion Area only:

- a. If no alcohol will be served, a barrier is required to be placed 18" from the curb.
- b. If alcohol is served, in addition to a barrier required 18" from the curb, an additional barrier is required to enclose the area in a manner that adheres to requirements established by the State Alcoholic Beverage Control Board.

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 or bolting, 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 may be constructed with either open or closed design, in wrought iron, metal, wood, open rail and/or metal cable. 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.
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.

Exceptions: In the Culver Expansion Area only:

- a. Lighting elements that are rated for outdoor use may be attached to the barrier provided they are not affixed to City trees or other landscaping and their electrical connection is obtained from the building. Any receptacles shall be listed, raintight/weatherproof, and Ground Fault Interrupter protected.
9. 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.

E. 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. Tables and chairs must be freestanding and capable of immediate removal. Booths and built-in installations are prohibited.
3. Umbrellas shall not project beyond the barriers of the outdoor dining area.
4. 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.

5. 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.
6. 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.
7. Lighting fixtures shall be either wall mounted or free standing and shall be of a uniform design and color.
8. Lighting fixtures in outdoor dining areas require an electrical permit from the Building Safety Division and comply with the California Electrical Code, California Energy Code, and be installed by a licensed electrician. All lighting shall be listed and rated for outdoor wet conditions.

F. Awnings, Tents and Canopies

Awnings, tents, and canopies are not included in the Permit and require a separate permit from Community Risk Reduction and or the Community Development Department Building Safety Division. Awnings, tents and canopies must meet all Community Risk Reduction, Building Safety Division, and Planning Division requirements. The installation of awnings, tents and canopies within outdoor dining areas shall be permitted as follows:

1. Awnings, tents and canopies must be attached to the building facade.

Exception: In the Culver Expansion Area only:

Tents and canopies are not required to be attached to the building façade and may be installed under the following conditions:

- a. Tents, canopies, and membrane structures shall comply with the Community Risk Reduction guidelines for Tents, Canopies and Membrane Structures.
 - b. Where tents, canopies, and membrane structures exceed Community Risk Reduction guidelines or as designated by the Fire Marshal or Building Official separate permits shall be applied for from the Building Safety Division by a licensed contractor.
 - c. Projects requiring a Permit from the Building Safety Division shall comply with the follow:
 - i. The more stringent of the California Building Standards Code, standards adopted by the Director of Public Works, state, and local laws.
 - ii. Structures are limited to one story in height, with seating at grade level, and have a construction type II, IV, or equivalent.
2. It is preferred that vertical awning, canopy or tent support structures be affixed to the dining area's barriers rather than to the sidewalk. Support elements resting on the

sidewalk may increase the amount of the security deposit.

3. The design, materials, and colors used for awnings, tents and canopies 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, tent or canopy 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.

G. 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 Director of Public Works/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 Department of Public Health 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 in a healthy condition and be replaced as needed to maintain a vibrant appearance.
- H. Awnings, tents, canopies 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.
- K. Outdoor dining areas must comply with all State and City regulations and restrictions on smoking.

V. NON-CONFORMING USES

Existing outdoor dining areas in operation prior to the effective date of these standards via an active Permit may remain in their existing format for as long as the Permit remains active. Thereafter, the following shall be required:

- A. For those existing locations where the current Licensee is seeking approval of an extension to a lapsed Permit, all improvements not in compliance with these new standards shall be modified at the sole cost to the current Licensee and the current Permit shall not be extended until written confirmation has been issued

by the Director of Public Works/City Engineer and Community Development Director or their designee that all required modifications have been successfully completed; and

- B. For those existing locations where a new Licensee is seeking approval of a new Permit, all improvements not in compliance with these new standards shall be modified at the sole cost to the new Licensee and the new Permit shall not be issued until written confirmation has been issued by the Director of Public Works/City Engineer and Community Development Director or their designee that the modifications have been successfully completed. .

VI. MODIFICATIONS AND EXTENSIONS

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

A. Modifications to Permits:

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

B. Extensions to Existing Permits:

Prior to expiration of the initial term of approval, subsequent one (1) year extensions will be granted upon payment of the license fee and submittal of an up to date Certificate of Insurance. All terms and conditions of the current Permit shall be subject to review and revision as may be deemed appropriate by the Director of Public Works/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 or curb;
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 are subject to change by City Council action.

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, Fire Marshal, 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 during the course of conducting official city business.
- C. Notice of violation of the outdoor dining design standards, standards of operation or of failure to pay any fees due in relation to any Permit shall be made in writing to the Licensee by any Code Enforcement Officer, Public Works Inspector, Fire Marshal, or Building Inspector of the City. A copy of the notice shall be filed in the Engineering Division. The Licensee shall immediately cure the violation upon receipt of the notice. If the violation is not cured within ten (10) days after issuance of the notice to the Licensee, the Public Works Director/City Engineer may suspend or revoke the Permit.
- D. The City retains the right to revoke a Permit ~~†~~ upon thirty (30) days notice, regardless of compliance with these provisions.