

RESOLUTION NO. 2022-\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CULVER CITY, CALIFORNIA, CONFIRMING THE JULY 26, 2022 FORTY-THIRD SUPPLEMENT TO PUBLIC ORDER: (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 DECEMBER 31, 2022; (2) FURTHER EXTENSION OF EXISTING TEMPORARY USE PERMITS ISSUED DURING THE COVID-19 PANDEMIC TO EXPAND OUTDOOR DINING ON PRIVATE PROPERTY TO DECEMBER 31, 2022; (3) RESUMPTION OF OUTDOOR DINING LICENSE FEES, INCLUDING FOR TUPS, AS OF SEPTEMBER 1, 2022, WITH THE EXCEPTION OF MAIN STREET; AND (4) RESUMPTION OF VALET PARKING LICENSE FEES AS OF SEPTEMBER 1, 2022. ISSUED BY THE CITY MANAGER, AS DIRECTOR OF EMERGENCY SERVICES, UNDER CITY OF CULVER CITY EMERGENCY AUTHORITY, DUE TO THE COVID-19 PANDEMIC.

**WHEREAS**, pursuant to the authority granted by Culver City Municipal Code (CCMC) Section 3.09.020, on March 14, 2020, the City Manager, as the Director of Emergency Services, issued a Proclamation of Local Emergency due to the Coronavirus (COVID-19) pandemic, which was ratified by the City Council on March 18, 2020 by Resolution No. 2020-R015; and

**WHEREAS**, beginning on March 16, 2020, under the authority of CCMC Section 3.09.020, the City Manager issued an initial Public Order and 43 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 indoor portions of non-essential businesses, and most recently, requiring proof of

1 vaccination to enter indoor portions of certain categories of businesses and indoor  
2 portions of City facilities; and

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

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

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

16 **WHEREAS**, the 17<sup>th</sup> Supplement to Public Order, issued June 10, 2020,  
17 relaxed certain Zoning Code requirements and permitted restaurants to expand dining  
18 operations outdoors on private property, subject to the approval of the Community  
19 Development Director and in accordance with the TUP process outlined in Zoning Code  
20 Chapter 17.520, and on April 21, 2021, the 36<sup>th</sup> Supplement to Public Order expanded to  
21 the 16<sup>th</sup> and 17<sup>th</sup> Supplements to allow bars to apply for TUPs to operate outdoors in the  
22 public right of way and on private property; and

23 **WHEREAS**, on July 15, 2021 the City Manager issued the 37<sup>th</sup> Supplement to  
24 Public Order, extending the TUPs issued by the Public Works Director for the expansion  
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1 of outdoor dining and other uses on City sidewalks only, through December 31, 2021, and  
2 also extended the waiver of outdoor dining license fees and valet parking license fees  
3 through that same date; and

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

13  
14 **WHEREAS**, the TUPs were again extended through the issuance of the 41<sup>st</sup>  
15 Supplement on March 29, 2022, due to the emergence of the BA.2 subvariant of the  
16 Omicron mutation. The extension of TUPs and continued waiver of license fees were  
17 actions taken to support business use of outdoor spaces, due to the rapid increase in  
18 positive COVID-19 cases over the winter of 2021-2022, the continued community  
19 transmission of the Omicron variants, and recognition that the public continues to be  
20 reluctant to dine, shop and conduct business indoors; and

21  
22 **WHEREAS**, through the 42<sup>nd</sup> Supplement, the Public Orders issued by the  
23 City Manager have all been confirmed by the City Council; and

24  
25 **WHEREAS**, the State of California and Los Angeles County are in a sixth  
26 surge of virus infections, primarily driven by the BA.5 variant of the virus. Due to the  
27 increased circulation of BA.5, which is associated with high rates of infection and re-  
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1 infection, the County entered into the high transmission phase in mid-July 2022, and the  
2 City Manager issued the 43<sup>rd</sup> Supplement on July 26, 2022, due to the factors discussed  
3 herein; and

4 **WHEREAS**, due to the continuing community transmission of COVID-19 in  
5 the country, the state, and the County of Los Angeles, the ongoing concerns about the  
6 COVID-19 variants, as well as to aid in the economic recovery of the City's businesses, it  
7 is a reasonable and prudent measure to assist the City's businesses to continue to  
8 operate outdoors to protect the public health and safety during the ongoing and ever-  
9 changing pandemic.  
10

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

- 13 1. Pursuant to CCMC Section 3.09.020.B.1.h(2), the City Council hereby  
14 confirms the Forty-Third Supplement to Public Order issued by the City  
15 Manager, in his capacity as Director of Emergency Services, on July  
16 26, 2022, attached hereto as Exhibit A and incorporated herein by  
17 reference.  
18
- 19 2. The City Council finds that this Resolution is not subject to the  
20 requirements of the California Environmental Quality Act (CEQA)  
21 pursuant to CEQA guidelines, California Code of Regulations, Title 14,  
22 Chapter 3, Section 15060(c)(2) [the activity will not result in a direct or  
23 reasonably foreseeable indirect physical change in the environment]  
24 and Section 15060(c)(3) [the activity is not a project as defined in  
25 Section 15378] because it has no potential for resulting in physical  
26 change to the environment, directly or indirectly.  
27  
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1 3. This Resolution shall take effective immediately upon its adoption.

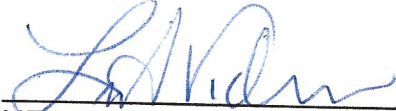
2  
3 APPROVED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2022.

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5  
6 DR. DANIEL LEE, MAYOR  
7 City of Culver City, California

8 ATTEST:

9 APPROVED AS TO FORM:

10  
11 JEREMY BOCCHINO  
12 City Clerk

13  
14   
15 HEATHER BAKER  
16 City Attorney



JOHN M. NACHBAR  
CITY MANAGER

CITY MANAGER'S OFFICE  
**CITY OF CULVER CITY**

9770 CULVER BOULEVARD, CULVER CITY, CALIFORNIA 90232-0507

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

**Issue Date: July 26, 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 December 31, 2022; (2) Further Extension of Existing Temporary Use Permits Issued During the COVID-19 Pandemic to Expand Outdoor Dining on Private Property to December 31, 2022; (3) Resumption of Outdoor Dining License fees, including for TUPs, as of September 1, 2022, with the exception of Main Street; and (4) Resumption of Valet Parking License Fees as of September 1, 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, stay at home orders, mask and distancing requirements, capacity requirements for businesses, and, at times, closing of indoor portions of non-essential businesses, all consistent with various Executive Orders 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.

Relevant to this 43<sup>rd</sup> Supplement, 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, including the March 28, 2022 41<sup>st</sup> Supplement. 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).

## **Forty-Third Supplement to Public Order**

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The 17<sup>th</sup> 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 accordance with the TUP process outlined in Zoning Code Chapter 17.520. The 36<sup>th</sup> Supplement to Public Order expanded the 16<sup>th</sup> and 17<sup>th</sup> 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 37<sup>th</sup> 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.

On December 7, 2021, the City Manager issued the 39<sup>th</sup> 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. The TUPs were again extended through the 41<sup>st</sup> Supplement, due to the emergence of the BA.2 subvariant of the Omicron mutation.

Since that time, new subvariants have emerged, and much of the country, the State of California and Los Angeles County, are in a sixth surge, primarily driven by the BA.5 variant of the virus. Due to the increased circulation of BA.5, which is associated with high rates of infection and re-infection, the County entered into the high transmission phase in mid-July 2022. The Los Angeles County Public Health Department recommends maximizing ventilation indoors, and highly recommends medical grade masks and respirators. If the County remains in the high transmission category, it is anticipated that the Public Health Department will institute an indoor masking order by the end of July 2022.

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 16<sup>th</sup> Supplement and extended pursuant to the 37<sup>th</sup>, 39<sup>th</sup>, and 41<sup>st</sup> Supplements, are further extended through December 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, including the portion of Culver Boulevard next to the K-ZO Restaurant, a portion of Irving Place used by Rush Street, and sections of Washington Boulevard between Hargis Street and Melvil Street, are further extended through December 31, 2022.
3. Outdoor dining license fees, including for TUPs referenced in Sections 1 and 2 above, shall resume Citywide pursuant to the City's approved fee schedule, for use of the City's sidewalks and roadways, beginning on September 1, 2022, except as otherwise provided for in this 43<sup>rd</sup> Supplement.
4. TUPS for expanded outdoor dining on Main Street issued by the Public Works Director are extended through December 31, 2022. The waiver of outdoor dining license fees for Main Street is also extended through December 31, 2022 due to the reduced ability for outdoor dining which is restricted to the days and times Main Street is closed, from each Friday evening to Monday morning, and other operational considerations.
5. TUPs issued by the Public Works Director for certain uses on Melvil Street between Washington Boulevard and the City boundary to the north will be decided as a separate matter by the City Council at a future meeting in conjunction with the discussion of the future use of Melvil Street as a closed or reopened roadway.
6. TUPS issued by the Community Development Director for expansion of outdoor dining or for outdoor operations of bars, as set forth in the 17<sup>th</sup>, 36<sup>th</sup>, and 41<sup>st</sup> 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 December 31, 2022.



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7. The City maintains the right to terminate or modify any TUP prior to the expiration date, with thirty days' written notice to the affected TUP holder.
8. The waiver of valet parking license fees will expire on August 31, 2022 and the payment of valet parking license fees will resume as of September 1, 2022.
9. The City of Culver City will continue to align with the County of Los Angeles Health Officer Orders, including the most recent April 21, 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.
10. 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.

Any violation of this Forty-Third 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-Third Supplement to Public Order shall be effective immediately and shall remain in effect until superseded, amended, modified, rescinded, or expired by its terms.

Date: July 26, 2022



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