



# City of Culver City

## Staff Report Details (With Text)

**File #:** 22-882      **Version:** 1      **Name:** Confirm Public Order Extending TUPs and Modify Outdoor Dining Standards  
**Type:** Resolution      **Status:** Consent Agenda  
**File created:** 3/23/2022      **In control:** City Council Meeting Agenda  
**On agenda:** 4/11/2022      **Final action:**

**Title:** CC - CONSENT ITEM: (1) Adoption of a Resolution Confirming the March 29, 2022 Forty-First Supplement to Public Order, Further Extending to August 31, 2022 Temporary Use Permits Issued During the COVID-19 Pandemic to Expand Outdoor Dining and Other Uses on City Sidewalks, the Public Right-of-Way, and on Private Property, and Further Extending the Waiver of Outdoor Dining License Fees and Valet Parking License Fees to August 31, 2022; and (2) Adoption of a Resolution Revising Outdoor Dining Standards and Procedures to Include the Additional Sidewalk Areas Recently Constructed in Downtown and Rescinding Resolution No. 2009-R078 Related Thereto.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 2022-04-11\_ATT 1\_ Resolution 41st Supplement.pdf, 2. 2022-04-11\_ATT-2 Redline of Revisions to Outdoor Dining Standards and Procedures.pdf, 3. 2022-04-11\_ATT 3\_Resolution Revising Outdoor Dining Standards.pdf

Date	Ver.	Action By	Action	Result
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**Meeting Date:** April 11, 2022

**Contact Person/Dept.:** Joe Susca, Public Works-Administration

**Phone Number:** 310-253-5636

**Fiscal Impact:** Yes  No       **General Fund:** Yes  No

**Attachments:** Yes  No

**Commission Action Required:** Yes  No       **Date:**

**Commission Name:**

**Public Notification:** (E-Mail) Meetings and Agendas - City Council (04/06/2022); the Downtown Business Association (03/31/2022); the Culver City Chamber of Commerce (03/31/2022); and each

member of the business community who have been issued a Temporary Use Permit for their use of the public right-of-way or their private parking lots (03/31/2022).

**Department Approval:** Yanni Demitri, Public Works Director/City Engineer (03/29/2022)

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## **RECOMMENDATION**

Staff recommends the City Council (1) adopt a Resolution confirming the March 29, 2022 Forty-First Supplement to Public Order, further extending to August 31, 2022 Temporary Use Permits issued during the COVID-19 pandemic to expand outdoor dining and other uses on City sidewalks, the public right-of-way, and on private property, and further extending the waiver of outdoor dining license fees and valet parking license fees to August 31, 2022; and (2) adopt a Resolution revising the City's Outdoor Dining Standards and Procedures to include the additional sidewalk areas recently constructed Downtown and rescinding Resolution No. 2009-078 related thereto.

## **BACKGROUND**

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 County of Los Angeles 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 "Waivers").

On May 11, 2020, the City Council approved the formation of the Economic Recovery Task Force (the "ERTF") to address the unique challenges of COVID-19 and to implement measures to spur economic survival during the pandemic and eventually; recovery from it. One of the initial recommendations for the ERTF, in collaboration with Community Development and Public Works, was the implementation of no fee Temporary Use Permits (TUPs) to allow restaurants, some personal services and retailers the ability to expand into the public right-of-way (PROW), and onto private parking lots due to the prohibition or curtailment of indoor occupancies and physical distancing requirements. This TUP program was approved in the 16<sup>th</sup> and 17<sup>th</sup> Supplement to Public Order and allows businesses to expand their operations into privately-owned parking lots, closed-off streets, parklets and sidewalks. In June 2020, the City Council approved a few street closures throughout Downtown and in the Arts District to assist restaurants and businesses clustered in these areas.

On May 24, 2021, at the regular City Council public meeting, the City Council extended TUPs for the use of the PROW through Labor Day (September 6, 2021). The City Council also extended the Waivers, both of which were expiring on 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 Waivers 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 39<sup>th</sup> Supplement to Public Order, extending to April 30, 2022 the TUPs issued for use of the PROW that 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 Blvd. 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.

To date, the City has issued approximately four dozen TUPs for the use of private property and over three dozen TUPs for use of the PROW.

On January 24, 2022 the City Council approved a \$820,788 construction contract with MJ Contractors to demolish every other sidewalk planter located on the north side of Culver Blvd from Duquesne Avenue to Canfield Avenue and to replace them with bricks to create additional sidewalk space for the purpose of expanding outdoor dining (the “additional sidewalk areas”). The construction project concluded the end of March 2022, approximately one month ahead of schedule.

## **DISCUSSION**

### **41<sup>st</sup> Supplement to the Public Order**

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, has already been detected in California and Los Angeles County and is increasingly becoming more prevalent. There are concerns that persons over age 65 who were vaccinated or boosted earlier in the pandemic may be vulnerable. Both Pfizer and Moderna have asked for and have received approval from the U.S. Food and Drug Administration for another booster shot for older adults (over 50), and for an additional dose for persons who are immunocompromised.

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.

In addition to being 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, extending the TUPs until August 31, 2022 will allow time for Downtown restaurants to continue to use their additional sidewalk areas temporarily while they simultaneously proceed to design, apply for, and obtain long-term Outdoor Dining permits, and then proceed to construct improvements to their assigned additional sidewalk areas.

Accordingly, the City Manager issued the 41<sup>st</sup> Supplement to Public Order on March 29, 2022, extending all TUPs citywide until August 31, 2022; those issued within the City's street closure areas may be terminated earlier or be recommended to be extended further, depending on the outcome and timing of those streets' future use. That future use has been the topic of separate discussions with the City Council, the first of which occurred on March 28, 2022, for Main Street. The future use of Melvil Street and configuration of Washington Blvd. near Melvil, (which is the starting point for the westbound *MOVE Culver City* segment), will be the topic of a future discussion with the City Council.

Pursuant to CCMC Section 3.09.020.B.1.h(2), staff recommends the City Council adopt the proposed Resolution confirming the 41st Supplement to Public Order (Attachment 1).

#### Revisions to the City's Outdoor Dining Standards and Procedures:

On September 14, 2009, the City Council adopted Resolution No. 2009-078 establishing the City's existing Outdoor Dining Standards and Procedures (the "Standards"). As written, the Standards would prohibit use of the additional sidewalk areas recently constructed Downtown. The proposed Resolution revising the Standards includes the following amendments that would allow restaurants use of their additional sidewalk areas:

1. Allows restaurants to place fire-rated tent, canopy, or other types of shade structures in their additional sidewalk areas and to install utilities upon and within them.
2. Eliminates the existing 250 square feet maximum outdoor dining space limitation and associated parking requirements. *(In conjunction with this elimination, a separate Public Hearing has been scheduled this evening to consider a zoning code amendment related to parking requirements in Downtown.)*
3. Allows restaurants to include the parkway within their outdoor dining area footprint provided however, that some form of barrier be placed 18" from the curb, which barrier may include installation of lighting fixtures upon it, provided they are rated for outdoor use.

*(See Attachment No. 2 -- Redline of Revisions to the Outdoor Dining Standards and Procedures; and Attachment No. 3 - Proposed Resolution Revising Outdoor Dining Standards and Procedures.)*

#### Payment Plan Offer:

Although staff is not proposing changes to the existing Outdoor Dining Permit fee structure, it is important to note that in recognition of the high startup fees to obtain a Parklet permit (primarily due to one-time sewer fees amounting to approximately \$641 per seat), the City Council approved offering businesses a payment plan of up to 12 months within which to pay the total amount due. All the same Parklet permit fees apply to Outdoor Dining Permits (with exception to metered parking space fees, which do not apply).

Staff recommends the City Council offer the same 12-month payment plan option offered to Parklet applicants to Outdoor Dining Permit applicants who wish to expand their operation into the additional sidewalk areas Downtown as follows: With exception to Los Angeles sewer fees (approximately \$302.50 per seat, a one-time fee the City must collect and remit to Los Angeles upon issuance of the permit), applicants will be offered the ability to pay all their remaining startup fees over 12 months, which are comprised of the following one-time fees: A \$500 maintenance deposit, Culver City sewer (\$339 per seat), application (\$750), issuance (\$50), and tech surcharges (4% of application/issuance fees); along with the City's only recurring fee comprised of a \$13 per square foot annual license. The license fee is pro-rated upon issuance of the Outdoor Dining Permit to include the remaining months of the first calendar year.

Upon issuance of the Outdoor Dining Permit, the first monthly payment of the total fees mentioned above would become due (1/12<sup>th</sup> of the total).

## **FISCAL ANALYSIS**

Continuation of waivers for existing outdoor dining permits (\$15,500/month) and valet parking license fees (\$500/month) would result in reduced revenues to the City of approximately \$16,000 per month during the extension period, based on pre-pandemic estimates.

## **ATTACHMENTS**

1. 2022\_04\_11 ATT 1 Proposed Resolution Confirming 41<sup>st</sup> Supplement to Public Order
2. 2022\_04\_11 ATT 2 Redline of Revisions to the Outdoor Dining Standards and Procedures
3. 2022\_04\_11 ATT 3 Proposed Resolution Revising Outdoor Dining Standards and Procedures

## **RECOMMENDED MOTIONS**

That the City Council:

1. Adopt a Resolution confirming the 41<sup>st</sup> Supplement to the Public Order extending Temporary Use Permits issued for use of private property and use of the public right-of-way, and to continue to waive outdoor dining license fees and valet parking permit license fees until August 31, 2022; and
2. Adopt a Resolution revising the City's Outdoor Dining Standards and Procedures to include use of the additional sidewalk areas recently constructed Downtown and to rescind Resolution No. 2009-078; and
3. With exception to the City of Los Angeles sewer connection fees, which are due upon issuance of the Outdoor Dining Permit, instruct staff to offer Outdoor Dining Permit applicants for use of the additional sidewalk areas the option to pay their remaining startup fees in 12 equal monthly payments, which fees are comprised of a maintenance deposit, and Culver City sewer fees, application fees, technology surcharge fees, issuance fees, and a pro-rated

license fee.