STANDARDS AND PROCEDURES FOR THE TEMPORARY USE OF PUBLIC RIGHT-OF-WAY FOR OUTDOOR DINING AND RETAIL

06/01/2020
PREFACE

On March 14, 2020, pursuant to the authority granted by Culver City Municipal Code (―CCMC‖) Section 3.09.020.B.1.a, the City Manager, as the Director of Emergency Services, issued a Proclamation of Local Emergency due to the outbreak and spread of the coronavirus respiratory disease (―COVID-19‖) pandemic.

After the City Manager declared a Local Emergency on March 14, 2020, on March 16th, he issued a Public Order enacting new City measures to protect members of the public and City workers from undue risk of COVID-19. (―March 16 Order‖). The March 16 Order included, among other things, temporary restrictions on certain establishments throughout Culver City, in which large numbers of people tend to gather and remain in close proximity, including the partial closure of restaurants, prohibiting in-person dining and only permitting take-out and delivery, and the closure of non-essential retail businesses.

Since the issuance of the March 16 Order, various supplemental orders have been issued by the State of California and the Los Angeles County Department of Public Health, as well as a number of our neighboring communities, including the City of Los Angeles.

On May 26, 2020, the Los Angeles County Department of Public Health announced its “Reopening Safer at Work and in the Community for Control of COVID 19: Moving the County of Los Angeles through Stage 2 of California’s Pandemic Resilience Roadmap” (―County Order‖). The County of Los Angeles is following the State of California’s phased re-opening that progressively designates sectors, businesses, establishments or activities that may reopen or resume, with necessary modifications to protect the public health and safety, and to lower the risk of transmission of COVID-19.

On May 27, 2020, consistent with the County Order, the City Manager issued a Fifteenth Supplement to Public Order, which included, among other things:

Lower risk retail establishments, as listed and defined in Section 9 of the County Order, including those located in indoor and outdoor malls and shopping centers, may open for business at 50% capacity. Businesses must prepare, implement, distribute to each employee, and post at each public entrance the most recent version of the Los Angeles County Public Health Checklist for Retail Establishments (Appendix A) posted on http://publichealth.lacounty.gov/media/coronavirus/. Businesses are required to adhere to all Culver City and Los Angeles County Public Health guidelines, including physical distancing and infection control practices to protect employees and customers.

On May 29, 2020, the Los Angeles County Department of Public Health revised its “Reopening Safer at Work and in the Community for Control of COVID 19: Moving the County of Los Angeles through Stage 2 of California’s Pandemic Resilience Roadmap” (―Revised County Order‖), to allow additional businesses to conditionally re-open.

On June 1, 2020, consistent with the Revised County Order, the City Manager issued a
Sixteenth Supplement to Public Order, which included, among other things:

1. Restaurants and other facilities that serve food may re-open for in-person dining, at a capacity not to exceed 60% of maximum occupancy. Restaurants and other food facilities that provide in-person dining shall abide by the most recent version of the Los Angeles County Public Health Restaurant Opening for On-site Dining Protocols (Appendix I) posted on http://publichealth.lacounty.gov/media/coronavirus/ (“County Protocols”). Businesses are required to adhere to all Culver City, Los Angeles County Public Health, and State of California Public Health Officer guidelines, including physical distancing and infection control practices to protect employees and customers.

2. Notwithstanding any provisions of the Culver City Municipal Code to the contrary, in order to accommodate restaurants re-opening at a capacity not to exceed 60% of maximum occupancy, and lower risk retail stores re-opening at a capacity not to exceed 50% of maximum occupancy, during the course of the local emergency, and subject to the approval of the Public Works Director/City Engineer:

3. Restaurants may temporarily expand in-person dining into the public right-of-way, or expand the existing outdoor dining areas further into the public right-of-way. Retail establishments may temporarily use the public right-of-way for the outdoor display of goods.

4. In order to effectuate this Public Order, the Public Works Director/City Engineer shall have the authority and discretion to establish procedures, standards, conditions, rules and regulations, as he may deem appropriate, to implement the processing and approval of such temporary outdoor dining and retail areas (including, but not limited to approval of street closures, or partial street closures), while ensuring compliance with the Americans with Disabilities Act (ADA), and any other measures deemed necessary to protect the public health, safety and welfare.

5. Outdoor dining permit fees will continue to be waived pursuant to existing public orders. In addition, temporary use permit fees, for the purposes and duration of this Public Order, shall be waived.

The City has formed an Economic Recovery Task Force to facilitate the safe and successful reopening of all City business sectors in a phased manner that based upon guidelines established by the Governor and the County of Los Angeles and subsequently adopted with or without modification by the City. The purpose of the following Standards and Procedures is to establish guidelines for restaurants and retailers to expand their business operations to include a portion of adjacent public right-of-way for the purpose of increasing their maximum occupancy levels to conduct business while preserving physical distancing requirements established by the Revised County Order and the City.
City of Culver City COVID-19 Outdoor Permit Requirements

To promote public health and safety restaurants and retail businesses that receive a Temporary Outdoor Public Right-of-Way Permit within an approved area shall be subject to the following requirements:

- Any and all applicable County Protocols for retailers, indoor and outdoor dining found here: [http://publichealth.lacounty.gov/media/coronavirus/](http://publichealth.lacounty.gov/media/coronavirus/)

- The City will designate #1 and #2 westbound lanes of Culver Boulevard from Canfield Avenue to Irving Avenue for outdoor dining with an ADA accessible pathway of 4 feet wide within the area and accessible from the crosswalks. The #3 lane (adjacent to the curb) will remain open for City buses and City emergency vehicles only. The City will provide special barricades at Canfield Avenue, Main Street, and Irving Place to protect the outdoor dining area on Culver Boulevard. Restaurant staff and patrons can only access the outdoor dining area on Culver Boulevard from the crosswalks at Canfield Avenue, Main Street, and Irving Place. Access is prohibited directly from the restaurant across the #3 southbound lane of Culver Boulevard to the outdoor dining area.

Restaurant and Retail Program Overview

The City’s Temporary Outdoor Public Right-of-Way Permit Program has been established to ensure businesses have the greatest ability to operate successfully through the recovery process. Public right-of-way shall include sidewalk and street (including alleys and paseos) areas.

Temporary Outdoor Dining/Retail Activity in Public Rights-of-Way

The City is accepting permit applications allowing restaurants and retail businesses to expand operating space in public right-of-way where space is available along the establishment’s frontage.

To participate in the program, minimum requirements within the Americans with Disability Acts (ADA), and any other measures deemed necessary to protect the public health, safety and welfare, must still be met.

I. INTRODUCTION

A. Pursuant to public orders, the CCMC and these Standards and Procedures, outdoor dining and retail product sales are permitted within temporarily closed public right-of-way through execution of a Temporary Outdoor Public Right-of-Way Permit. Outdoor dining areas are designated areas where patrons may consume food and/or beverages provided by an adjacent food service establishment. Such establishments may either provide sit down table service in the outdoor dining area or sell take-out items that are subsequently consumed in the outdoor dining area. Retail sales areas are designated areas where retail establishments may place chairs, tables, racks, shelving or other furnishings to
display their merchandise

B. These Standards and Procedures are intended to encourage outdoor dining and retail sales activities that will help create and maintain a safe and dynamic business environment that benefits the customer, the business, and the City.

C. These Standards and Procedures regulate the design and operation of temporary outdoor dining areas and other retail sale activities conducted in the public right-of-way, pursuant to a Temporary Outdoor Public Right-of-Way Permit and do not apply to outdoor dining on private property areas or outdoor dining in the public right-of-way that is subject to an existing Outdoor Dining License Agreement. In addition, these Standards and Procedures do not provide information on all government agency requirements for starting a new restaurant, retail business or expanding an existing one. Business owners must secure appropriate licenses and permits from the State Alcoholic Beverage Control Board, Los Angeles County Health Department, and the City of Culver City Planning Division, Building Safety Division, Fire Department, Engineering Division, and the Finance Department’s Business Tax Division.

D. Temporary Outdoor Public Right-of-Way Permits are not transferable, delegable or assignable. In the event of a transfer of the business, the transferee shall submit an application to the Engineering Division to obtain a new permit prior to the effective date of the transfer.

E. Upon termination of the Temporary Outdoor Public Right-of-Way Permit, the Permittee shall immediately remove the barriers around the outdoor dining or retail sales area and return the public right-of-way to its original condition or a condition deemed acceptable by City Engineer, and remove all personal property, furnishings, lighting, umbrellas, and equipment from the sidewalk.

II. APPLICATION AND TERM OF PERMIT

Application Procedure

1. An Application for a Temporary Outdoor Public Right-of-Way Permit may be obtained from the Culver City Engineering Division of the Public Works Department.

2. An Application for a Temporary Outdoor Public Right-of-Way Permit, when submitted, shall include

   a. An application
   b. A Site Plan, which details:
      i. accurate, dimensioned, scaled drawings showing the business storefront and property line, storefronts adjacent to the business, and the full sidewalk, street, street trees, fire hydrants, and parking area in the proposed permit area. Size and font must be legible.
ii. Delineate and dimension the area proposed for the permit.

iii. Show and label all proposed furniture and appurtenances requested to be placed within the proposed permit area.

iv. Provide north arrow, scale, street name, business address, and business name.

c. Provide required Insurance prior to permit issuance.

3. The Applicant (Permittee) shall obtain and maintain in force during the life of the Temporary Outdoor Sidewalk and Street Permit comprehensive general liability, broad form property damage and blanket commercial 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.

4. The Applicant (Permittee) shall obtain and maintain in force for the life of the Temporary Outdoor Public Right-of-Way Permit Worker’s Compensation insurance in an amount established by the State, as specified in the application package. Failure to maintain Worker’s Compensation insurance is grounds for revocation of permit.

5. Engineering Division staff shall obtain the concurrence of all applicable City staff such as the City Attorney’s Office and Planning Division before approving any Temporary Outdoor Public Right-of-Way Permit. Engineering staff shall attempt in good faith to assist the applicant in resolving any problems with the application.

6. The Temporary Outdoor Public Right-of-Way Permit shall not become effective until the permit is signed by all parties.

7. Only after the Permittee has received a copy of the executed Permit and after all the above required application procedures are completed to the satisfaction of the Engineering Division shall any installation of the subject outdoor dining or retail sales area begin. All work within the outdoor dining and retail sales areas shall be in accordance with the approved Permit. Said outdoor dining and retail sales areas shall be permanently maintained consistent with the terms of the Permit.

Term of Permit

1. Unless terminated earlier pursuant to Sections 2, below, a Temporary Outdoor Public Right-of-Way Permit shall remain in effect for the duration of the June 1, 2020 Sixteenth Supplement to Public Order, as extended or amended.

2. The City Engineer may terminate any Temporary Outdoor Public Right-of-Way Permit immediately, without notice, if it is determined that the outdoor use if creating a hazard to public health or safety. Otherwise, a Permit may be terminated, with or without cause, upon 10-days’ notice to Permittee.
III. DESIGN STANDARDS

The following design standards shall apply to any outdoor dining or retail sales 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 or retail sales 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), the barriers (or the outermost boundary of the permitted dining or retail sales 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 the City Engineer 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.

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 and retail sales areas shall be accessible to the disabled in accordance with ADA standards. The buildings adjacent to the outdoor dining and retail sales areas shall maintain building egress as defined by the Uniform Building Code and State of California Title 24 Disabled Access Standards.

B. Street (Including Alleys and Paseos)
As used herein, pedestrian path or pedestrian passageway means a continuous obstruction-free walking area in the street or sidewalk, paved to City standards, between the outside boundary of the dining or retail sales area and any obstruction, including but not limited to parking meters, street trees, landscaping, street lights, bus benches, public art, median islands, and curb lines.

The outdoor dining and retail sales areas shall be accessible by the disabled in accordance with ADA standards. The outdoor dining or retail sales area shall be setback from the adjacent curb line and shall maintain an ADA accessible pedestrian pathway of four feet (4'-0") in width within the area and accessible from the crosswalks.

C. Dining or Retail Area

1. The maximum dimensions of an outdoor dining or retail area in the public right-of-way shall be limited as follows:
a. The outdoor dining/retail area shall not exceed the street frontage of the establishment unless approval is obtained from the adjacent property owner, and the City Engineer to do so.

b. The final configuration of the outdoor dining/retail area shall be subject to approval by the 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, umbrellas or other weather protection devices, planters, trash receptacles, stanchions or other approved barriers, heaters and menu boards. Retail sales areas shall contain only chairs, tables, racks, shelving and merchandise or other items and other improvements that may be approved at the discretion of the City Engineer.

3. Establishments that serve alcoholic beverages in the outdoor dining area shall provide a physical barrier that meets the requirements of these Standards 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 their application to obtain a Temporary Outdoor Permit). Sales or consumption of alcoholic beverages shall not be permitted in retail sales areas.

D. Barriers

If physical barriers are used to enclose the outdoor dining and retail sales areas, the barriers shall conform to the following:

1. Barriers shall conform to the City Engineer’s installation standards and be removable however, they are not required to be removed when the business closes each day, but shall be capable of being removed without any special tools, if need be.

2. Any modification(s) to the surface of the public right-of-way, such as borings for recessed sleeves are prohibited

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, or other improvement within the sidewalk or street with the exception of a pull box and/or vault cover as may be permitted by the applicable public utility.

5. Landscaped barriers are allowed if deemed acceptable by the City Engineer.

6. Signage or lighting elements attached to the barrier are prohibited.
7. The use of any plastic, fabric or other material to further enclose the outdoor dining or retail sales area is prohibited.

E. Furniture, Lighting and Signs

The furniture and other equipment to be used within the outdoor dining or retail sales area shall be as follows:

1. The design, materials, and colors used for chairs, tables, racks, shelving, umbrellas, trash receptacles and other fixtures shall not include any lettering or graphics.

2. Tables, racks, shelving 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 or merchandizing 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') above the sidewalk.

5. Heaters shall be of a uniform design and color, shall not project beyond the physical limits of the outdoor dining area, and may require written approval by the Fire Marshal prior to their installation.

6. All lighting shall be directed onto the subject site and fixed in such direction as to not impact abutting uses and traffic.

7. Lighting fixtures shall be free standing and shall be of a uniform design and color.

F. Landscaping

The use of temporary landscaping is permitted within the outdoor dining and retail areas 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 or street 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 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 or street.

III. OPERATION

A. Outdoor dining and retail sales areas shall be operated in a manner that meets all requirements of the Los Angeles County Health Department and other applicable regulations.

B. Outdoor dining and retail sales areas shall be continuously supervised by management and shall be operated in such a manner so as not to create a public nuisance as set forth in CCMC Section 9.04.015.

C. Restaurant and retail management shall keep the outdoor dining area and retail sales areas clear of litter, merchandise that has fallen on the ground, 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 or retail sale areas to dispose of purchase receipts, apparel tags, product wrappers, etc.

D. The applicant shall be responsible for maintaining the public right-of-way adjacent to the outdoor dining or retail sales area so as to keep it free of litter, including any closed curbside 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 and retail sales area and remove the debris to be placed in an enclosed receptacle. No debris shall be swept, washed, or blown into the sidewalk, gutter or street.

F. If disposable materials are used, the business shall comply with all applicable City recycling programs.

G. Plants shall be maintained and replaced as needed to maintain a vibrant appearance.

H. Umbrellas shall be washed whenever they become dirty and a minimum of once every six (6) months.

I. Unamplified musical instruments or sound reproduction systems are permitted in outdoor dining and retail sales 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 or retail sales areas. Permittees must maintain in good standing any entertainment permit required by the City.

J. Sale of alcoholic beverages in outdoor dining shall comply with Section 17.400.015 of the CCMC. Sales or consumption of alcoholic beverages shall not be permitted in retail sales areas.

K. Outdoor dining and retail sale areas must comply with all State and City
regulations that restrict smoking.

IV. ENFORCEMENT

A. All plans, permits, and conditions of approval for the outdoor dining or retail sale area approved by the City Engineer 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, Police Department, or any other governmental enforcement agency.

B. Notwithstanding the allowance to install temporary private improvements within the public right-of-way via these outdoor dining and retail sale 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 and retail sale area for the purpose of conducting official City business.

C. Any violation of these Standards and Procedures may result in the termination of the Temporary Outdoor Public Right-of-Way Permit. The City retains the right to terminate a Temporary Outdoor Public Right-of-Way Permit upon 10-days’ notice, regardless of compliance with these Standards and Procedures. In the event the City Engineer determines there is a hazard to public health or safety, the Permit may be immediately terminated, without notice, at the sole discretion of the City Engineer.