



# County of Los Angeles CHIEF EXECUTIVE OFFICE

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September 1, 2021

To: Supervisor Hilda L. Solis, Chair  
Supervisor Holly J. Mitchell  
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Supervisor Janice Hahn  
Supervisor Kathryn Barger

From: Fesia A. Davenport  
Chief Executive Officer

## REPORT BACK ON ESTABLISHING PERMANENT OPTIONS FOR OUTDOOR DINING (ITEM NO.12, AGENDA OF JUNE 8, 2021)

On June 8, 2021, the Board of Supervisors (Board) directed the Chief Executive Office (CEO), in consultation with County Counsel and the Departments of Public Works (DPW), Regional Planning, Public Health (DPH), Fire, and Consumer and Business Affairs (DCBA) to: 1) establish permanent Countywide guidelines for expanded options for outdoor dining spaces, 2) develop a plan to transition all temporary outdoor dining participants into the permanent outdoor dining program, and 3) develop a plan to increase awareness and participation of restaurants.

### Background

In 2020, the proclamation of local and State emergencies from the threat posed by COVID-19 resulted in the closure of indoor operations for restaurants. In July 2020, the Board approved a motion that directed DPW and Regional Planning to fast-track the approval of outdoor dining guidelines and delegated authority to the Directors of these departments to issue temporary permits to interested restaurants located in unincorporated County communities seeking to implement temporary outdoor dining spaces. County departments, including DPW, DPH, DCBA, Regional Planning, Treasurer and Tax Collector, Beaches and Harbors, and County Counsel developed Countywide guidelines for the implementation of temporary outdoor dining spaces within unincorporated County areas, including on public sidewalks, in the on-street parking areas, in public alleys or closed streets, as well as in private on-site and off-site parking facilities.

Each Supervisor  
September 1, 2021  
Page 2

The County's options to temporarily expand outdoor dining has benefited businesses and patrons during a time when the restaurant and hospitality industry struggled to remain open.

For the Board's consideration, DCBA, Fire, DPH, DPW, and Regional Planning, have outlined their roles and their plans to transition from temporary outdoor dining options to permanent options (see Attachment). At the Board's direction, the departments may pursue the implementation of their plans, such as amending or establishing the County Code/ordinances to address the new requirements associated with permanent outdoor dining options.

Successful implementation and enforcement will require multi-departmental coordination that should include developing a road map that provides applicants with step-by-step permitting processes. The Board should assign a lead department, such as DCBA, to coordinate the County departments, and centralize outreach to the stakeholders.

Should you have any questions concerning this matter, please contact me or Sheila Williams at (213) 974-1155 or [swilliams@ceo.lacounty.gov](mailto:swilliams@ceo.lacounty.gov).

FAD:JMN:MM:SW  
CY:CF:WO:cc

#### Attachment

c: Executive Office, Board of Supervisors  
County Counsel  
Consumer and Business Affairs  
Fire  
Public Health  
Public Works  
Regional Planning  
Treasurer and Tax Collector

### **DCBA**

DCBA has the Small Business Concierge Program (Concierge) to assist prospective and existing business owners in successfully reaching their goals of opening or expanding their business. The Concierge conducts regular workshops and one-on-one counseling sessions that provide technical assistance and connect businesses with available development resources, including access to capital, workforce development, and assistance with permits and licenses.

The Concierge currently assists prospective and current restauranteurs throughout the County of Los Angeles with information related to the necessary permits and licensing needed to launch, expand, or open new locations. To accomplish this, the Concierge works closely with the Departments of Fire, Public Health (DPH), Public Works (DPW), Regional Planning, and Treasurer and Tax Collector (TTC) to provide accurate information via workshops and counseling sessions.

DCBA will assist and facilitate restaurants in transitioning from temporary outdoor dining to permanent outdoor dining by:

- Partnering with DPH and external stakeholders to conduct a public outreach campaign to restaurants, with an emphasis of those located in communities that were disproportionately impacted by the COVID-19 pandemic;
- Developing educational materials, training, and technical assistance curriculum to streamline the process for those interested in maintaining or implementing outdoor dining; and
- Integrating the Permanent Outdoor Dining program into DCBA's Concierge program and the East Los Angeles Entrepreneur Center. Interested businesses can receive one-on-one counseling sessions and attend informative workshops to increase their application readiness. The Concierge can work to deliver this information in various languages at no cost to ensure businesses that have historically faced cultural, financial, or technical barriers when accessing County services can easily connect to programs.

### **Fire Department**

Fire will continue to enforce Fire Code compliance. Two major areas of concern in the transition from temporary outdoor dining to permanent outdoor dining are: 1) the installation of tent and canopies, and 2) the placement of outdoor seating and tents in a fire access road. The installation of tent and canopies are considered temporary structures and can only be up for 180 days. After 180 days, the temporary structures are considered permanent structures, and would require compliance to more stringent requirements. Outdoor seating and tents in a fire access road are not allowable, due to the Fire Department needing access, at all times in case of emergency. These requirements are bound by the State Fire Code and cannot be modified.

Fire will partner with the other County departments to provide outreach and guidance to business owners on these requirements.

**DPH**

The Environmental Health Division within DPH is responsible for regulating food facilities, including restaurants, to determine compliance with the California Retail Food Code (CRFC), regarding food safety, sanitation, and restaurant construction. DPH is responsible for regulating any temporary or portable food service and preparation areas that restaurants may wish to establish in the outdoor dining area, including, satellite food service operations such as outdoor beverage bars and outdoor barbecues; ensuring proper sanitation of the seating area is maintained; and, preventing conditions that would attract rodents and other vermin. Satellite food service operations need to obtain approval from DPH prior to operating. Assembly Bill 61, introduced by Assembly Members Gabriel and Gipson, if passed, this would allow restaurants to operate satellite food service operations without first obtaining approval from DPH on a temporary basis.

DPH's permanent outdoor dining guidelines will include information on outdoor limited food preparation activities, prevention of food contamination, cleaning and setting of tables between customers, and proper sanitation and trash disposal. The guidelines would also indicate that if an outdoor area was used in common by multiple restaurants, all participating restaurants would be held responsible for the cleanliness and sanitation of the area.

Any changes to the permanent restaurant, due to the increased onsite-dining capacity, which may result in the restaurant's need to expand the existing kitchen to meet demands for additional food preparation space, refrigeration, and food and non-food storage space, would require a plan review and approval by DPH and the Department of Public Works (DPW), Building and Safety.

DPH can filter its existing inventory of all active restaurants to identify those operating within the unincorporated areas of the County. DPH also has a mass email system that can be used to notify restaurant owners of the program and provide links to documents on the websites of all of the departments involved in permitting the use of the public outdoor dining area.

**DPW**

DPW is responsible for developing safety guidelines, issuing permits, and performing inspections within the road right-of-way.

Permanent outdoor dining guidelines will require the amendment of current County Codes, such as Title 16 Highways, pertaining to sidewalk, road, and alley dining sections. DPW anticipates that the guidelines would include requirements for design plans, permits, permit fees, traffic impacts and controls, community support documentation, and establishing applicant responsibilities. Guideline considerations will need to include coordination with existing programs, which include the Sidewalk Vending Program, and facilities must maintain Americans with Disabilities Act clearances for pedestrians.

DPW proposes to develop or review standardized design plans which will streamline the approval process and will perform inspections to ensure installations are consistent with plans and approvals. The permitting process will also require enforcement of applicant responsibilities, such as compliance with standards, regular maintenance, and repair of facilities in the public right-of-way. A working group will evaluate the need for restaurant owners to maintain insurance for these facilities. Expansion of a business may trigger additional building code compliance review to ensure adequate exiting, plumbing fixture counts, and accessibility are provided. For proposals involving alley closures for permanent outdoor dining, reviews must be performed on a case-by-case basis, as it will likely involve a vacation process, and adequate ingress and egress would need to be provided. For proposals involving road closures, road closure permits will need to be obtained from DPW and coordination with other departments, community businesses, and residents will be required.

In addition, when performing repairs to the County's infrastructure and/or utilities in the public right-of-way, DPW may temporarily displace outdoor dining and/or parklets.

DPW and Regional Planning recommend a coordinated County effort be made for outreach and will continue to collaborate with DCBA's Concierge to provide updated permitting information. In addition, DPW may update the Outdoor Dining Program website, if needed, and prepare any supplemental marketing materials.

### **Regional Planning**

Regional Planning will be responsible for creating standards for outdoor dining areas on private property, reviewing applications to establish outdoor dining areas for compliance with these standards, and conducting inspections to ensure that outdoor dining areas are maintained in accordance with approved applications.

Regional Planning will need to prepare an ordinance amending Title 22 (Planning and Zoning) of the County Code which will establish standards for permanent outdoor dining areas, on private property in unincorporated communities including, but not limited to the following:

## ATTACHMENT

- Zones in which outdoor dining areas will be allowed as a land use (e.g., commercial, industrial, etc.);
- The permit(s) that will be required to establish outdoor dining areas in various zones;
- Development standards related to the size of outdoor dining areas, parking, separation from driveways and loading zones, landscaping, barriers, signage, and outdoor lighting; and
- Performance standards related to accessory live entertainment, amplified sound, and outdoor dining operations, such as trash disposal.

Regional Planning has required a Special Event Permit (SEP) for outdoor dining areas as part of the Temporary Outdoor Dining Program. However, an SEP is, by definition, only for land uses that will be operated for a limited timeframe. As part of the upcoming ordinance, Regional Planning may recommend requiring a Site Plan Review, (which does not include a public hearing) to establish outdoor dining areas that comply with all relevant development and performance standards. Regional Planning may also recommend requiring a Conditional Use Permit (CUP), which includes a public hearing, if applicants ask for modifications to relevant development and performance standards. A CUP would be reviewed by a Hearing Officer or the Regional Planning Commission on a case-by-case basis and approved if the decision-maker can make specified findings.

Regional Planning has allowed outdoor dining areas within parking lots as part of the Temporary Outdoor Dining Program and has not required additional parking for outdoor dining areas, which would generally otherwise be required when a restaurant increases its occupancy load. As part of the upcoming ordinance, Regional Planning must carefully consider land use impacts that could be generated by outdoor dining areas onto surrounding businesses and residential areas, especially parking impacts. Some communities could already be considered “parking impacted,” so expanding opportunities for outdoor dining without requiring additional parking could exacerbate these conditions, while other communities could become “parking impacted” over time. The Board has adopted modified parking standards for restaurants in certain communities, such as Altadena, East Los Angeles, and La Crescenta-Montrose, through overlay zones known as Community Standards Districts. However, modified parking standards may not be appropriate in other communities, such as Hacienda Heights, Rowland Heights, and the Santa Monica Mountains.

As part of the upcoming ordinance, Regional Planning may recommend a variety of approaches to address parking given that a single set of parking standards related to restaurants and outdoor dining should not be adopted on a Countywide basis. These approaches could be based on various zones or other certain circumstances (e.g., if the proposed site meets other geographic criteria), and could include but not be limited to the

following:

- Not allowing outdoor dining areas within parking lots;
- Requiring a Site Plan Review to establish outdoor dining areas within parking lots if they comply with specific development and performance standards and requiring a CUP if applicants ask for modifications to these development and performance standards;
- Requiring a CUP to establish outdoor dining areas within parking lots;
- Allowing outdoor dining areas that increase the occupancy load up to a certain amount (e.g., 10 percent, 20 percent, etc.) through a Site Plan Review without requiring additional parking; and
- Allowing outdoor dining areas that increase the occupancy load without additional parking through Title 22's existing Minor Parking Deviation process (for an up to 29 percent reduction in required parking spaces) and Parking Permit process (for an up to 50 percent reduction in required parking spaces).

Regional Planning has issued dozens of SEPs for outdoor dining areas as part of the Temporary Outdoor Dining Program and will work with each restaurant owner to determine if these outdoor dining areas could be made permanent pursuant to the upcoming ordinance, and if so, will guide them through the process. If a CUP or other permit that includes a public hearing is necessary to make a restaurant's outdoor dining area permanent, Regional Planning will consider allowing the area to be maintained on an interim basis pending a decision on the permit.

As part of the ordinance development process, Regional Planning will conduct outreach to a wide range of stakeholders, such as owners of existing restaurants in unincorporated communities, restaurant and hospitality industry organizations and other business groups, and Town Councils and other community groups. After the Board adopts an ordinance, Regional Planning may also conduct an awareness campaign that could include targeted mailings and emails, social media posts, and YouTube videos.

### **Funding**

After the first year, some restaurants may experience increases in Public Health Permit fees if the additional outdoor seating changes their Public Health Permit category. DPH would rely on existing plan review fees to cover the cost of approving any new outdoor food preparation areas or changes to permanent restaurants. Any additional time for determining compliance with the CRFC during routine inspections and complaints would be covered by existing Public Health Permit fees.

## ATTACHMENT

DPW and Regional Planning may require additional staffing and a sustainable funding source for updating codes/ordinance, developing guidelines and standards, enforcement, and inspections.

Associated permitting fees may be evaluated for updates or revisions.

Any staffing or funding requests will be included in the submittal to the CEO during the annual budget process, and to the extent possible, departments will identify existing funding to offset their efforts.