Department of Public Works

Bureau of Engineering
Bureau of Street Services
Joint Report No. 1

April 3, 2019
CD No. All

REVISED POLICY ON SIDEWALK DINING

RECOMMENDATION

Approve the proposed revisions made to the current “Bureau of Engineering’s (BOE) Policy on Sidewalk Dining within the Public Right-of-Way,” which was approved by the Board of Public Works (Board) on April 10, 2006 (Transmittal No. 1), and establish the revised requirements as the “Board of Public Works Policy on Sidewalk Dining.”

TRANSMITTALS

1. The BOE current policy on Sidewalk Dining adopted by the Board on April 10, 2006.

2. A copy of the display permit.

Background

The current BOE sidewalk dining policy was presented to, and approved by, the Board but was titled the “Bureau of Engineering’s Policy on Sidewalk Dining within the Public Right-of-Way.” Because it has been the practice to have the policy adopted by the Board, this report recommends titling the policy as the “Board of Public Works Policy on Sidewalk Dining.”

The current sidewalk dining policy does not address whether, and to what extent, sidewalks should be required to be Americans Disabilities Act (ADA) compliant. This report proposes revisions to the current sidewalk dining policy to address and incorporate ADA requirements.

Additionally, the Historic Core Pilot Program for Sidewalk Dining was authorized on November 8, 2013, under Council File No. 13-0658 as a two-year temporary program which has since expired. The pilot program has been successful and therefore this report recommends incorporating the elimination of notification requirements to neighbors into the standard policy and having one single citywide policy. The one item not recommended to be incorporated into the standard policy from the pilot program is the elimination of a site visit and the charge of a Tier 1 Revocable Permit Fee instead of a Tier 2 Revocable Permit Fee. The policy recommends requiring a Tier 2 Revocable Permit due to the need to assess the ADA condition of the sidewalk.
Lastly, this report also addresses a past instruction from City Council in Council File No. 13-0658 that includes recommendation number three as follows:

Instruct the Bureau of Engineering (BOE) to review its current policy on sidewalk dining within the public right-of-way in requiring the maintenance of a seven-foot space between encroachments (tables and chairs) and existing obstructions such as power poles, street lights, parking meters and tree wells for feasibility of changing the space requirement to a smaller space requirement.

**DISCUSSION**

The sidewalk policy recommendations in this report propose the following changes to the current BOE Sidewalk Dining Policy:

- Elimination of separate Historic Core Pilot Program and consolidation to one citywide sidewalk dining policy.
- Incorporation of Historic Core Pilot Program waiver of neighbor notification requirements.
- Reduction of the minimum allowed width of the Pedestrian Access Route (PAR) from seven to four feet.
- Requirement for fixed railings when a PAR of less than five feet is provided.
- Elimination of bi-annual $300 inspection fee.
- Addition of new requirement that sidewalks in the sidewalk dining area and 10 feet beyond meet ADA requirements, with an exception allowed for cross slope only.

**Sidewalk Dining Policy**

The following are the policy requirements for revocable permits authorizing sidewalk dining within the City of Los Angeles (City).

1. **Allowable Location of Sidewalk Dining Area**
   Sidewalk dining may be allowed by the City Engineer in any portion of the sidewalk area fronting a property provided that an acceptable PAR is provided along the frontage of the portion of the property proposed to contain sidewalk dining, and when applicable, connecting to the property entrance.

2. **Minimum Clearance**
   The minimum required clear space between encroachments (tables and chairs) and fixed street amenities such as poles, parking meters, tree wells, street lights
and signs shall be four feet, provided that ADA compliant passing areas are provided at 200 feet intervals.

3. Railings
Fixed railings or barriers (42-inch maximum in height) shall be required if the clear space between the sidewalk dining area to the curb or other fixed amenities is less than five feet. If the clear space is five feet or more, rails or barriers are not required. Non-fixed rails may be allowed when the clearance is five feet or more, subject to BOE approval.

4. ADA Compliant Sidewalks
The Sidewalk area fronting proposed dining area will be evaluated by BOE staff based on the three ADA requirements listed below.

- Vertical Displacement (uplift) - Need not to exceed ¼ inch.
- Sidewalk Cross-slope - Need not to exceed a 2 percent slope.
- Horizontal Displacement (cracks and crumbling) - Need not to exceed a ¼ inch gap.

If the condition of the sidewalk fronting proposed outside dining area does not meet all above-listed conditions, it will be required to be repaired or removed and replaced to be ADA compliant. However, if the only deficiency is the cross slope of up to 4 percent the sidewalk will not be required to be repaired. The area of the sidewalk assessment shall include all the frontage of the proposed outside dining area plus a 10-foot minimum transition on each end satisfactory to the City Engineer. The 10-foot transition area may be reduced to the minimum practical length determined by the City Engineer in cases where it would cross to a neighboring property.

5. Sidewalk Dining Area
The allowable number of seats shall be determined by the available dining area. The available dining area shall comply with the Los Angeles Municipal Code Section 12.03 (Outdoor Eating Area), as applied to private property by the Department of Building and Safety, which is an area no larger than 50 percent of the dining area of the ground floor restaurant.
6. Sewerage Facilities Charge (SFC)
   SFC fees shall be required for all additional outdoor seating based on the number of seats allowed.

7. Sidewalk Dining Permit Processing Fee
   The processing fee for a Sidewalk Dining Permit is as follows:
   - Tier 2 Revocable Permit Fee.
   - Tier 3 Revocable Permit Fee for the cases where Board approval is required to deviate from the sidewalk policy or there is a request to appeal a BOE decision to the Board.

8. Display Permit
   The display permit (Transmittal No. 2) shall be posted in plain view from the outside of the restaurant. Citations and penalty fees may be assessed for non-compliance.

9. Maintenance
   The sidewalk and dining area shall be maintained in a clean and uncluttered manner at all times.

10. Waiver of Damages
    A Waiver of Damages shall be signed and notarized by the restaurant owner or managing partner.

11. Liability Insurance
    Proof of liability insurance shall be renewed annually with the Risk Management Group of the City Administrative Officer.

12. Revocable Permit Requirements (RPR) Letter and Expiration
    The BOE will prepare a RPR letter, which is a list of conditions that must be met prior to issuance of the revocable permit for sidewalk dining along with a deadline to meet the listed conditions. The deadline is generally one year from the date of the RPR letter, but may be shorter or longer as determined to be appropriate by the City Engineer. Should the applicant fail to meet the condition by the specified deadline, the application will expire.

    A new revocable permit application and fee will be required in such cases where the application expires and/or where the applicant desires to change the scope of work to the extent that it requires an additional investigation and RPR letter. In
cases where the scope change is minor compared to the original scope, the City Engineer may charge a Tier 1 Revocable Permit fee for subsequent applications.

13. **Appeals**
   Appeals of all BOE determinations shall be heard by the Board.

14. **Change of Permit Ownership**
   A change in ownership shall require a new sidewalk dining permit.

   - A Tier 1 Revocable Permit Fee shall be required if no changes are proposed to the layout of the existing dining area. A new Waiver of Damages and Proof of Liability Insurance will be required to be signed and notarized.

   - Refer to paragraph 7 for fee schedule if changes are proposed to the layout of the existing dining area

15. **Non-Compliance**
   The Bureau of Street Services Investigation and Enforcement Division will be notified to investigate any complaints. Citations may be issued for non-compliance.

16. **Other Encroachments**
   Encroachments that are not specifically authorized under the revocable permit, such as heaters, fans, drop down enclosures, signs and valet podiums, shall not be allowed in the dining area.

17. **Alcohol**
   Serving alcohol requires a Conditional Use Permit from the Department of City Planning and a permit from the California Department of Alcohol Beverage Control. Because alcohol falls under the jurisdiction of those entities and not the Board, sidewalk dining permits will allow for serving or possessing alcohol within the sidewalk dining area provided proper permits and approvals are obtained for such use from the appropriate agencies.

18. **Revocation Process**
   A sidewalk dining permit may be revoked at any time. If revoked, the permittee shall remove all encroachments at no cost to the City and restore the public right-of-way to the satisfaction of the City Engineer.
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