



**Beverly Hills City Council Liaison /  
Open BH Code Changes and Fees Ad Hoc Committee**  
will conduct a Special Meeting, at the following time and place, and will address the  
agenda listed below:

**CITY OF BEVERLY HILLS  
455 N. Rexford Drive  
Room 280A  
Beverly Hills, CA 90210**

**IN-PERSON / TELEPHONIC / VIDEO CONFERENCE MEETING**

**Beverly Hills Liaison Meeting**  
**<https://beverlyhills-org.zoom.us/my/committee>**  
**Meeting ID: 516 191 2424**  
**Passcode: 90210**

**You can also dial in by phone:**  
**+1 669 900 9128 US**  
**+1 833 548 0282 (Toll-Free)**

**One tap mobile**  
**+16699009128,,5161912424# US**  
**+18335480282,,5161912424# US (Toll-Free)**

**Tuesday, March 14, 2023  
3:00 PM**

***Please be advised that pre-entry metal detector screening requirements are now in place  
in City Hall. Members of the public are requested to plan visits accordingly.***

*In the interest of maintaining appropriate social distancing, members of the public can view this  
meeting through live webcast at [www.beverlyhills.org/live](http://www.beverlyhills.org/live) and on BH Channel 10 or Channel 35  
on Spectrum Cable, and can participate in the teleconference/video conference by using the link  
above. Written comments may be emailed to [mayorandcitycouncil@beverlyhills.org](mailto:mayorandcitycouncil@beverlyhills.org) and will also  
be taken during the meeting when the topic is being reviewed by the Beverly Hills City Council  
Liaison / Open BH Code Changes and Fees Ad Hoc Committee. Beverly Hills Liaison meetings  
will be in-person at City Hall.*

**AGENDA**

- 1) Public Comment
  - a. Members of the public will be given the opportunity to directly address the  
Committee on any item listed on the agenda.

2) Open BH Code Changes and Fees Subcommittee Meeting #6

Review and discussion of potential lease fee structure for open air dining on sidewalks  
and in parklets, including summary overview of public outreach efforts and previously  
discussed changes to the permitting process and development standards for open air  
dining on sidewalks.

3) Future Agenda Items

4) Adjournment



Huma Ahmed  
City Clerk

Posted: March 9, 2023

**A DETAILED LIAISON AGENDA PACKET IS AVAILABLE FOR REVIEW AT  
[WWW.BEVERLYHILLS.ORG](http://WWW.BEVERLYHILLS.ORG)**



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**CITY OF BEVERLY HILLS**  
**COMMUNITY DEVELOPMENT**

**MEMORANDUM**

**To:** Beverly Hills City Council OpenBH Code Changes and Fees Subcommittee

**From:** Timothea Tway, AICP, Director of Community Development  
Masa Alkire, AICP, City Planner  
Cindy Gordon, AICP, Principal Planner  
Chloe Chen, Senior Planner  
Laura Biery, Marketing and Economic Sustainability Manager

**Date:** March 14, 2023

**Subject:** OpenBH Code Changes and Fees Subcommittee Meeting #6

**Attachments:** A. Summary of Draft Recommendations for Code and Fee Changes  
B. Handout for Open BH Meeting and Survey

**INTRODUCTION**

This memorandum provides the OpenBH Code Changes and Fees Subcommittee (Subcommittee) background on the work completed to date and outlines the discussion points for today's meeting, specifically:

1. **Fees:** This report outlines the fees that could be assessed for permanent open air dining installations, some of which are already set or determined by agencies other than the City, and some of which the City can change. At this time, staff is seeking feedback on the fees and direction to take the proposed sidewalk dining and parklet fees to the full City Council.

Previous discussions with restaurant owners have focused on the proposed sidewalk and parklet lease fees. Additional fee information is provided in this report (specifically, Tables 2 and 3) and is intended to be a broad overview of both existing and potential fees, with the goal of providing greater information and transparency to restaurant owners on fees that could apply to permanent open air dining configurations on sidewalks and in parklets, as we move toward the establishment of permanent regulations and fees for open air dining.

2. **Development Standards and Program Implementation:** This report summarizes previously proposed and reviewed development standards and implementation of a revised and expanded permanent open air dining program. Staff is planning to move forward with finalizing draft standards for new open air dining regulations and the proposed new ministerial process for open air dining based upon the previous guidance on standards that has been provided (Attachment A), unless the Subcommittee has further changes to make at this time.
3. **Summary of Public Outreach Efforts to OpenBH Businesses:** This report also provides an update on the outreach efforts conducted by staff since the last Subcommittee meeting in May 2022. This outreach was performed per the direction of the Subcommittee.

## **DISCUSSION**

### **BACKGROUND**

The Subcommittee has met on five occasions (November 29, 2021; January 26, 2022; March 2, 2022; April 4, 2022; and May 5, 2022) to review the existing open air dining regulations and determine if changes to code requirements, lease fees, and/or the approval process are necessary or desired. The Subcommittee considered several questions to guide discussions regarding potential changes to the City's permanent open air dining program. These prior discussions were framed by the following questions:

- What type, how much, and where should outdoor dining be allowed in the city?
- What is the appropriate relationship between indoor and outdoor dining?
- What are the appropriate sidewalk clearances between outdoor dining and obstructions in the public right-of-way (e.g., parking meters, utility boxes, etc.)?
- Is there support for a ministerial or by-right (i.e., non-discretionary) approval process?
- What are the appropriate lease fees for outdoor dining on sidewalks and in parklets?

There has been broad support for updating the code requirements and approval process for permanent outdoor dining to create an easier and more efficient process both from restaurant owners and the City Council. A summary of the previously supported changes by the Subcommittee are outlined in Attachment A of this report. City staff will craft an ordinance based on the supported changes to the code requirements and approval process outlined in Attachment A. The ordinance will be considered by both the Planning Commission and the full City Council at future public hearings, once the Subcommittee, and then the City Council, provides concurrence regarding the general content of the proposed changes.

### **Permanent Open Air Dining on Private Property and Assembly Bill (AB 2097)**

Since the last meeting of the Subcommittee, a new state law has become effective that impacts the City's ability to require parking for projects (including open air dining) in certain areas of the City. AB 2097 (effective January 1, 2023) preempts cities from imposing or enforcing parking requirements for all commercial projects that are located within ½ mile of a major transit stop. The ½ mile proximity standard covers a majority of commercial properties in the city, including the entire Business Triangle. The commercial areas not subject to AB 2097 are a majority of the properties along Olympic Boulevard and a small number of properties on North Robertson Boulevard.

As noted in Attachment A, the Subcommittee previously identified that permanent open air dining on private property should be exempted from providing additional parking, so long as the dining area is located within the first 40' of a property from the sidewalk. AB 2097 preempts this potential standard for the majority of commercial properties in the city (those within a ½ mile of a major transit stop) and prevents the City from requiring additional parking regardless of the location of the additional outdoor dining area. It should be noted that prior to State law changes, a majority of the patio-style dining that has been permitted on private parking lots either in front or behind or beside a restaurant through the OpenBH program would have been difficult to establish on a permanent basis due to parking requirements. However, given the State law changes described above, AB 2097 removes one of the primary barriers that would have otherwise precluded a restaurant owner from seeking to establish open air dining within an existing parking area. With the City's implementation of AB 2097, these patio-style dining areas on private parking lots may be able to avail themselves of a more streamlined review process, but would likely still be subject to some level of discretionary review depending on the project. This discretionary process could

include Planning Commission review if the open air dining is associated with a request to operate during extended hours, or through the City's architectural review process. Additionally, the City's existing open air dining standards require discretionary review for any open air dining on private property that serves more than 12 people (i.e., more than 12 chairs) and is located within 170' of a residentially zoned property. At this time, City staff is seeking direction on whether any open air dining on private property should have required parking, given that the City would be preempted from imposing or enforcing parking requirements in many areas. Based on Subcommittee direction, City staff will work with the Planning Commission to craft an ordinance that establishes a review process for these configurations and seeks to mitigate potential impacts that such configurations could have on adjacent residential properties.

## SUBCOMMITTEE REVIEW

Staff requests that the Subcommittee provide direction and consensus on the following items, so that staff may draft an ordinance to amend the zoning code and implement a revised permanent Open Air Dining program. Staff would like to bring forward a draft ordinance to the Planning Commission in Spring 2023, in order to ensure that a permanent program is in place before the expiration of the temporary OpenBH program at the end of September 2023.

### Topic 1: Fees

***Sidewalk and Street Leasing Fees:*** At previous meetings, staff presented options for a tiered fee system for the use of the public right-of-way (sidewalk or street) for open air dining, depending on whether the open air dining was located on the public sidewalk adjacent to the restaurant or in a parklet within an existing on-street parking space. Similar to the pricing for in-lieu parking spaces in the city, the proposed pricing for rental of sidewalk space would depend on the street upon which the restaurant is located. The following tiered system was previously presented at Subcommittee meetings, and the proposed rates were based on the current lease fees for space in the city, as well as the popularity of dining on certain streets.

Information shared from other jurisdictions indicated that public right-of-way outdoor dining fees tend to be between \$1 and \$2 per square foot per month. Taking this into consideration, staff developed the following tiered system, with lease prices that are more similar to current sidewalk dining lease pricing (between \$1 and \$1.60 per square foot per month for dining on the public right-of-way; it should be noted there has not previously existed a fee for parklet dining in the city).

The currently proposed tiered fee schedule that has been previously supported by the Subcommittee is as follows:

Table 1. Proposed Tier Fee Schedule			
Tier	Applicable Streets in Each Tier	Sidewalk Dining (per square foot/month)	Parklet Dining (per square foot/month)
Tier 1	North Rodeo Drive North Cañon Drive North Beverly Drive Beverly Cañon Gardens	\$1.75	\$2.00
Tier 2	Other streets in the Business Triangle South Beverly Drive	\$1.50	\$1.75

Tier 3	Robertson Boulevard Olympic Boulevard La Cienega Boulevard Wilshire Boulevard South Santa Monica Boulevard (only that portion located outside of the Business Triangle) All other streets not listed in Tier 1 or Tier 2*  <i>Note: Staff recommends changing this listing to “All other streets not listed in Tier 1 or Tier 2” as that would capture the listing of Tier 3 streets previously discussed by the Subcommittee.</i>	\$1.00	\$1.50**
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\*Language added since last Subcommittee discussion in red

\*\*Parklets may not be permitted on these streets due to specific speed and safety restrictions being developed by the other OpenBH Subcommittee. Once determined, this section may include a reference to that determination.

While not specifically noted in prior discussions, City staff recommends revising the listing in Tier 3 to read “All other streets not listed in Tier 1 or Tier 2” as that would capture the prior listing as well as certain side streets (e.g., Charleville Boulevard and others) that may also have sidewalk and parklet dining. As a reminder, applicants with parklets occupying metered parking spaces would also be required to pay for the lost meter revenue under the proposed fee schedule. The Subcommittee may wish to discuss whether to adjust the tiered fees up or down, or direct staff to finalize these fees and include them in the draft ordinance.

Subcommittee Action Item: The City has sole discretion in setting the lease fees for use of the public right-of-way. Should the City move forward with the leasing fee schedule in Table 1? One consideration in establishing the lease fee schedule is the overall “fee load” described in the subsection below.

**Overview of Required Fees for Permanent Open Air Dining:** It is important to note that a majority of the fees outlined in the following sections are existing fees that were assessed to restaurant owners for permanent open air dining configurations prior to the establishment of the temporary OpenBH program that provided a waiver of most fees during COVID. With the proposed modifications to the review process and sidewalk lease fees, many restaurant owners may actually see a reduction in the total fee load necessary for the establishment of permanent open air dining on a sidewalk from the fees that existed prior to OpenBH. This is a result of the option for a ministerial (by-right) plan review process for open air dining configurations that meet certain standards, as well as reduced sidewalk lease fees depending on the street. A ministerial process for permanent open air dining on a sidewalk does not currently exist, and all such configurations (established prior to OpenBH) had to go through a discretionary process, which resulted in higher application fees, a public noticing process, holding costs related to the tenant space, and, for certain projects, a public hearing before the Planning Commission. The establishment of a ministerial process could result in both cost and time savings for restaurant owners. The fees reflect the City’s approach of full cost recovery for development projects, which includes staff time spent reviewing projects, as well as maintenance of streets and sidewalks that experience higher use with outdoor dining configurations; a full cost recovery approach ensures that the City’s general fund is not used for these purposes. The existing fees were waived as a temporary measure as part of the OpenBH program in consideration of restaurants that were forced to significantly modify their business models, including customer capacity and indoor operations, as a result of the various stay-at-home orders issued during the COVID-19 Pandemic. Standard plan review processes were also modified in order to facilitate a shortened review period for temporary structures for OpenBH program participants.

For purposes of facilitating the Subcommittee's fee conversation, staff has summarized the various fees that would be required in order to establish sidewalk or parklet open air dining. It should be noted that certain fees, such as sewer fees, may be difficult to estimate accurately without extensive site-specific research because these fees are assessed one time, with subsequent charges based on any net increase in chairs. For example, if a restaurant previously had approved outdoor dining on the sidewalk prior to the OpenBH program, they would have already paid a sewer fee for the number of chairs approved in their outdoor dining plan. However, if such restaurant now decided to add more chairs in a parklet or expand the open air dining on the sidewalk, the sewer fee would need to be assessed for only the net new chairs associated with the restaurant.

Table 2 below provides an outline of the fees that a restaurant owner/operator could expect if they wanted to establish a permanent open air dining configuration on the sidewalk and in a parklet. City staff is currently developing a calculator and an informational handout intended to provide restaurant owners/operators a general idea of fees required to establish permanent open air dining on the public sidewalk or in a parklet.

It should be noted that, in addition to the fees in Table 2, if an open air dining project requires a building permit (e.g., an interior tenant improvement or construction of a new exterior structure), the City's standard building permit fees will be assessed. Building permit fees are calculated based on project valuation, and are *generally* 10% of a project's valuation. Additionally, the Open Air Dining Permit application fees currently in the City's fee schedule are only for discretionary review, which will likely not be required for a majority of new open air dining configurations that meet the proposed by-right standards in Attachment A.

The City Council will also need to set an application fee for a ministerial open air dining process. The City could consider a lower application fee as ministerial review will involve shortened review time and processing compared to the current discretionary open air dining process application fee in the BHMC.

Table 2. Summary of Potential Open Air Dining Fees and Costs	
General Fees	One-Time Fees
<b>Open Air Dining Application Fee</b> Please note these are the base fees established by the City, there may be additional surcharges that are applicable to all applications.	Commission-level (discretionary): \$5,236.00  -or-  Staff-level (discretionary): \$2,948.00  -or-  Ministerial (by-right): To be determined
<b>Sidewalk Encroachment Bond + Application Fee</b> <u>This fee only applies to open air dining on the public sidewalk that install a railing or barrier into the sidewalk.</u> The application fee is not refundable; however, the bond is eligible to be refunded when the street is restored/repared to the original condition - after conditions are approved by City inspector.	Application fee: \$819.00  Encroachment Bond: Length of outdoor dining area multiplied by the width of sidewalk (Property Line [PL] to curb) multiplied by \$30.00, rounded to the nearest thousand
<b>Sewer Fee</b> County-required one-time fee per chair & type of restaurant	\$200-\$300 multiplied by # of net new chairs

Sidewalk Dining Fees	Recurring Fees (monthly)
<b>Sidewalk Dining Lease Fee</b> Based on location of dining (see table 1 for tiers)	Tier 1: \$1.75 Tier 2: \$1.50 Tier 3: \$1.00 (per square foot per month)
Parklet Dining Lease Fees	Recurring Fees (monthly)
<b>Lost Meter Revenue From Parklet Fee</b> *Meter rates vary throughout the city. Approximate parking meter revenue loss calculated from 27 existing parklets using a combined 76 meters between S. Beverly Drive & the Business Triangle combined.	\$280 - \$310 per month per meter based on location of meter
<b>Parklet Dining Lease Fee</b> Based on location of dining (see table 1 for tiers)	Tier 1: \$2.00 Tier 2: \$1.75 Tier 3: \$1.50 (per square foot per month)

Depending on the scope of the project, a one-time plan check fee would also be assessed to cover the cost of staff time spent reviewing any associated plans. Additionally, there are likely to be new parklet-specific fees related to plan check, inspections, and encroachment bonds. The OpenBH Design and Operating Standards Subcommittee is continuing their discussion on parklet design and operating standards, and the parklet-specific fees have not been established but will likely be considered once the parklet guidelines are finalized.

The lease fees for sidewalk dining are the main fees that will be revised as a result of the Subcommittee's efforts, and the parklet fees will be added, since there was not previously an option for a parklet in the City's existing open air dining program. The following table provides a broad overview of the existing versus proposed fees.

Table 3. Comparison of Existing and Proposed Fees and Costs for Open Air Dining		
Type of Fee	Existing Fees	Proposed Fees
Open Air Dining Application Fee	Commission Discretionary Review - \$5,236	No change from existing
	Staff Discretionary Review - \$2,948	No change from existing
	Ministerial Review – N/A	To be determined
	Sidewalk Bond Filing Fee - \$819	No change from existing
Permitting Fees	Sewer Fee – assessed per net new chair	No change from existing <i>This is a pass through fee<sup>1</sup></i>
	Encroachment Bond – assessed per area of encroachment	Sidewalks: no change from existing  Parklets: may add an encroachment bond for parklet dining – to be determined
	Plan Review and Permitting Fees – assessed per valuation and staff review	No change from existing
Sidewalk Dining Lease Fee	Sidewalk with barrier - \$1.64 Sidewalk without barrier - \$1.13  (per SF, per month)	Tier 1 - \$1.75 Tier 2 - \$1.50 Tier 3 - \$1.00  (per SF/month)

<sup>1</sup> The sewer fee is a one-time fee required by the County, and is assessed per net new chair and type of restaurant.



Parklet Dining Lease Fee	N/A	Tier 1 - \$2.00 Tier 2 - \$1.75 Tier 3 - \$1.50  (per SF/month)
Lost Meter Revenue	N/A	\$280 - \$310 (per month per meter depending on location of meter)

\*Fees being modified and/or established as part of the permanent open air dining program are in red

Subcommittee Action Item: Should the City move forward with establishing lease fees (Table 1) as previously discussed by the Subcommittee? If the Subcommittee is supportive of the processing updates (i.e., creating a ministerial process for many open air dining configurations), staff will analyze an appropriate fee based on the staff time required to process the request. Any ministerial fee is likely to be less than the existing “Staff Discretionary Review” fee that currently exists.

## **Topic 2: Development Standards And Program Implementation**

Attachment A summarizes the Subcommittee’s previously provided guidance for drafting revised Open Air Dining regulations and a ministerial review process for certain outdoor dining configurations that meet specific standards. Specifically, Subcommittee guidance has been provided to staff regarding: a) Location of Dining; b) Parking; c) Path of Travel on Sidewalks; d) Umbrella and Barrier Standards; e) Approval Process for Open Air Dining; and f) Permit Renewal. As discussed in the background section above, the State has modified parking regulations for commercial projects, including restaurants, located within a ½ mile of a major transit stop. This will modify the Subcommittee’s guidance on parking in Attachment A. The Subcommittee may want to discuss or additionally consider its parking guidance given this changed circumstance. In summary, the implementation of AB 2097, along with a new ministerial review process, will remove previously existing barriers to open air dining, both related to parking requirements and review processes, compared to the City’s existing permanent open air dining program. It is anticipated that the establishment of open air dining will be easier and more streamlined based on the Subcommittee’s recommendations and State law.

Subcommittee Action Item: Staff will move forward with drafting the revised open air dining regulations based the Attachment A guidance unless there is additional or revised guidance provided by the Subcommittee.

## **Topic 3: Public Outreach Efforts**

At the most recent Subcommittee meeting on May 5, 2022, staff was directed to conduct public outreach to restaurant owners/operators to gauge feedback on the proposed lease fee structure. Staff prepared an informational handout (Attachment B) and an online survey opportunity in order to solicit feedback on the proposed changes. Additionally, City staff undertook an exhaustive public outreach campaign in order to provide information on the proposed lease fee structure, highlight and encourage participation in the online survey, and provide details on the March 14 Subcommittee meeting. This information was provided through a variety of means that included the following:

- In-person outreach meetings to all 29 parklet owners in January/February 2023;
- Hand-delivered notice to all restaurants in the city in January/February 2023;
- Verbal mention at the Beverly Hills Chamber of Commerce Government Affairs Meeting on February 16, 2023;
- Social media post on the City’s Instagram account on February 17, 2023;

- Direct email to all OpenBH participants on February 21, 2023 and March 2, 2023;
- Half-page newspaper notice in the Beverly Hills Courier on February 17, 2023 and in the Beverly Hills Weekly on February 23, 2023;
- Spotlight in the Beverly Hills Chamber newsletter on February 27, 2023.

The following provides a summary of the comments and/or concerns received from restaurant owners/operators.

#### *In-person meetings*

- Most businesses understood that there would be some fees for the use of the City's public right-of-way but expressed concern about the uncertainty and lead time for implementation of such fees. Many businesses noted that the City should be aware that fees affect each business differently (e.g., businesses in the Business Triangle vs. businesses on South Beverly Drive/Robertson Boulevard/La Cienega are different in scale, revenue, and size; a sit-down restaurant, fast casual restaurant, and pastry or coffee shop may all have different needs, different amount of use of the parklet or sidewalk dining, and different levels of affordability).
- Many businesses wanted to know the full picture of what fees would be applied for permanent open air dining configurations. Confusion about what fees have been paid already and what fees will or will not be assessed.
- Requested the City provide ample noticing and lead time before implementation of new fees and regulations, especially if such changes are significant.
- Interest to have the City bundle as many fees together as possible, and provide flexibility in terms of payment intervals (i.e., some businesses want yearly payments and others want quarterly payments of lease fees).
- Concern that additional fees will be assessed when many businesses have already made significant investments in their open air dining configurations (both on the sidewalk and in parklets) and interest in knowing if there is a way for the City to incorporate or account for the expenses already paid.
- Questions regarding grandfathering in or waiving some fees for those already in the OpenBH program vs those that join after the new program is in effect
- Businesses don't want to have to modify previously approved open air dining layouts and parklets that have already been reviewed and approved through the City's discretionary process just to get a new parklet permitted. Some businesses are concerned that they may have pre-existing nonconforming open air dining configurations that would no longer be allowed if they have to go through the review process again in order to permit a parklet or open air dining.
- Some businesses had never been part of the City's pre-existing open air dining program and were discovered during the pandemic and enveloped in to OpenBH as a stop gap and expressed concerns about what the transfer would look like for them

#### *Online Survey*

Staff also prepared an online survey to request feedback from restaurant owners and operators regarding factors that may affect into their decision to have sidewalk or parklet dining, and regarding the proposed lease fees for such dining. Staff advertised this survey in multiple ways, as described in the preceding section. The survey was available starting January 26, 2023, and was closed for responses on March 7, 2023, resulting in a total of 24 responses. Although the majority of respondents did not provide very detailed responses, many noted that the main factors that would influence their decision whether or not to include open air dining or a parklet were the associated permitting costs and time required to get this approved and installed. While some

respondents were supportive of the proposed fee structure as-is, one respondent suggested that the lease fees should include the lost meter revenue fee as well, and a few respondents noted that they would likely remove their outdoor dining if a fee is required. One reason noted for potentially removing open air dining was that the business (located on Robertson Boulevard) mostly provides delivery and take-out food services, and so they would not see the benefit of paying for open air dining. In addition, one response suggested that the fees were adjusted based on the income of the restaurant, since they felt there can be a wide range in the amount of income received by restaurants, even if they are on the same street.

The majority of respondents did not provide additional suggestions or feedback on the standards and regulations that would apply to open air dining, however, one respondent noted that closing the streets for pedestrians-only on the weekends could help foster business, and some noted concerns about maintenance, cleaning, and security in open air dining areas. Another respondent noted that specifically in the South Beverly Drive area, businesses may not be doing well enough to pay for open air dining, and have ongoing concerns related to crime and the homeless population in the area. In addition, one respondent requested that the food pickup loading spaces remain for the foreseeable future, as these are helpful for their delivery services.

### **FISCAL IMPACT**

There is no fiscal impact at this time, but this will be evaluated at future meetings based on recommendations made by the Subcommittee. It should be noted that the City Council has previously decided the current temporary no-fee OpenBH program is extended to September 30, 2023. Similarly, the current Open Air Dining program has not been charging annual lease fees at the direction of the City Council to keep the two programs in parity. Application fees for the City's existing Open Air Dining program were continued to be paid by new and renewing applicants during the last three years.

### **RECOMMENDATION**

Staff recommends that the Subcommittee provide direction regarding the three topics identified in this report. Staff will then report the Subcommittee's direction to the full City Council in order to obtain consensus and direction on potential changes related to applicable codes and fees for the permanent open air dining program, with the goal of drafting zone text changes that will be reviewed at a future Planning Commission public hearing. Specifically, staff is seeking the following:

1. Would the Subcommittee like to amend any of the proposed fees outlined in this report?
2. Would the Subcommittee like to propose any changes to the recommended code changes included in Attachment A?
3. Would the Subcommittee like to align parking requirements for open air dining with the recent changes in State law (AB 2097)?

The code changes and fees discussed in this report provide a path forward for a vast majority of the existing OpenBH businesses. Staff has identified some unique situations and circumstances and is in the process of further analyzing these cases to determine what, if any, additional code changes may be needed for these businesses. Staff may return to this Subcommittee at a future date to discuss these unique business situations and receive direction.

# Attachment A

Summary of Draft Recommendations for  
Code and Fee Changes

## **Summary of Draft Recommendations for Code and Fee changes for Open Air Dining as of May 2022**

### *Location of Dining*

- Allow open air dining to extend beyond the façade of the restaurant that it serves in certain cases. The restaurant owner would be required to show proof of written permission from adjacent property owners and tenants in order to expand dining in front of adjacent spaces. If the permission is revoked for any reason, the restaurant owner would be required to remove the open air dining from this area within 60 days and notify the City in order to amend their approval documents to reflect the change. Any railings installed around open air dining that was located beyond the façade of the restaurant would be required to be movable and not affixed to the sidewalk.

### *Parking*

- Do not require additional parking for open air dining on private property as long as the open air dining is within the first 40 feet from the sidewalk.

### *Path of Travel*

- Require a minimum six foot path of travel on sidewalk for pedestrians.
- Allow for discretionary review if an applicant can only provide a five foot path of travel.
- Create unique process for existing applicants who wish to retain their five foot path of travel that has already been established.

### *Umbrella and Barrier Standards*

- Require that umbrellas be integrated into railings and barriers when possible and prohibit umbrella bases from being located outside the open air dining area.
- Required barriers for open air dining installations with more than eight seats.

### *Approval Process for Open Air Dining*

Allow more open air dining to be approved ministerially (without discretionary review). Projects that could be approved ministerially must meet the following standards:

1. The dining may not extend beyond the façade of the restaurant that it serves,
2. The open air dining area must be smaller than 50% of the indoor square footage of the restaurant that it serves,
3. If the open air dining is on private property, it must be located further than 100' from residentially zoned (excluding mixed use zone) property,
4. If the open air dining is on public property, it must be located in the Business Triangle or limited to South Beverly Drive, Wilshire Boulevard, Olympic Boulevard, Robertson Boulevard, San Vicente Boulevard, South Santa Monica Boulevard, and La Cienega Boulevard.

5. If the open air dining is located outside the business Triangle, it may not operate during “extended hours” (extended hours are anything after 10 PM and before 7 AM on a weekday or 9 AM on a weekend or holiday).
  6. The open air dining does not interfere with public utilities
- Projects that do not meet these standards would require discretionary review at the staff level. The Director of Community Development will be able to review open air dining installations that are found to be problematic or operating in a manner not consistent with approvals.

#### *Renewal of Permit*

- Open air dining permits will be required to be renewed every five years after the initial granting of the permit, with no limit on the number of times a permit may be renewed. Keeping the renewal requirement would allow the City to periodically review the permit, the operation of the dining space, and the regulations to see if any regulations have changed in a way that would impact the open air dining.

# Attachment B

Handout for Open BH Meeting and  
Survey



Dear Beverly Hills Restaurant Owner/Operator,

The City of Beverly Hills is developing permanent regulations for open air dining and parklets in the city. City Council ad hoc committees are currently discussing potential changes to the existing regulations for permanent open air dining, adoption of regulations for parklets, and potential changes to fees for the rental of public sidewalk space that is used for open air dining and new fees for parklet dining. These regulations and fees are still being developed and are anticipated to become effective by September 30, 2023, or a date determined by the City Council.

### **WE NEED YOUR INPUT!**

At this time, the City is inviting you to complete an online survey specifically for restaurant/cafe owners and operators about these potential changes to gather your valuable input. **The survey can be found online at [www.surveymonkey.com/r/openBH](http://www.surveymonkey.com/r/openBH).** Input from restaurant/cafe owners and operators like you is crucial as the City moves forward in this effort.

A City Council ad hoc committee meeting will be held on **Tuesday, March 14 at 3:00 PM in Room 280A on the Second Floor of City Hall**. You are encouraged to attend, either in person or virtually (via Zoom), and provide input on the potential fee structure, which is summarized below. Please refer to the end of this notice for meeting location details and virtual meeting login information.

### **PROPOSED FEE STRUCTURE CHANGES FOR PERMANENT OPENBH PROGRAM**

In addition to process changes and regulatory changes to open air dining, the City is considering changing the existing fee structure for permanent open air dining and creating a fee structure for parklet dining. Currently, open air dining operators pay the following fees for the use of the public sidewalk:

- Open air dining area with a railing/barrier = \$1.64 per square foot/month
- Open air dining area without a railing/barrier = \$1.13 per square foot/month

The proposed fee structure would be a tier-based structure depending on the location of the business in the city, and whether the outdoor dining area is proposed within a parklet (dining that occurs on platforms located in the street) or proposed on sidewalk. The proposed fees for each tier would be as follows:

Tier	Applicable Streets in Each Tier	Sidewalk Dining (per square foot/month)	Parklet Dining (per square foot/month)
Tier 1	North Rodeo Drive North Cañon Drive North Beverly Drive Beverly Cañon Gardens	\$1.75	\$2.00
Tier 2	Other streets in the Business Triangle South Beverly Drive	\$1.50	\$1.75
Tier 3	Robertson Boulevard Olympic Boulevard La Cienega Boulevard Wilshire Boulevard South Santa Monica Boulevard (only that portion located outside of the Business Triangle)	\$1.00	\$1.50



The proposed fees are only for the use of public space (e.g., sidewalk area or a metered parking space) that would be converted to open air dining; the fees outlined above would not be assessed for any open air dining that occurs on private property. **It should be noted that there may be additional fees associated with an application and installation of a sidewalk or parklet dining configuration, such as a substantial charge for the Los Angeles Amalgamated System Sewer Facility Charge that is based on a net increase in chairs.** If a parklet is using an area that is a metered parking space, the parklet operator will be responsible for paying all or a portion of the lost meter revenue to the City.

***Please note, these potential regulatory and fee changes are still in development and will require final adoption by the City Council at a future date. Nothing has been approved at this point. The intent of this notice is to provide preliminary information and invite you to participate in a survey to gather input.***

Please share your input! The survey can be found online at [www.surveymonkey.com/r/openBH](https://www.surveymonkey.com/r/openBH).

### **VISIT OUR WEBPAGE FOR UP-TO-DATE INFORMATION**

For more information on this effort, including the effort to develop regulations and designs for parklets in the city, please visit [www.beverlyhills.org/openbh](https://www.beverlyhills.org/openbh). This webpage has all staff reports and public notices for upcoming ad hoc committee and City Council meetings on the topic, in addition to other pertinent documents or information, such as prior meeting recordings.

### **IF YOU ARE CURRENTLY PARTICIPATING IN OPENBH**

The proposed changes being discussed by the City are for the permanent outdoor dining regulations and fees. If you are currently participating in the OpenBH Program, nothing is changing at this time and the program is currently approved by City Council to run through September 30, 2023. You are responsible for ensuring that you have a valid OpenBH permit to participate in the program by renewing your permit every 90 days. However, it is a great time to start thinking about whether you are interested in making your OpenBH dining area permanent when the program ends. To learn more, visit the webpage and take the survey about permanent regulations.

### **CITY COUNCIL AD HOC COMMITTEE – PARTICIPATION DETAILS**

The ad hoc committee meeting will be held on **Tuesday, March 14 at 3:00 PM in Room 280A on the Second Floor of City Hall** and you are encouraged to attend, either in-person or virtually, to provide your input on the topic! Please see below for information on the in-person meeting location, as well as log in information for those interested in participating virtually.

In Person Participation	Virtual Participation
Beverly Hills City Hall Room 280A, Second Floor 455 North Rexford Drive Beverly Hills, CA 90210	<a href="https://beverlyhills-org.zoom.us/my/committee">https://beverlyhills-org.zoom.us/my/committee</a>
Public parking is available in nearby City parking structures located at 450 North Rexford Drive and 450 North Crescent Drive.	Meeting ID: 516 191 2424 Passcode: 90210  +1 669 900 9128 US +1 833 548 0282 (Toll-Free)

### **QUESTIONS?**

If you have additional questions or comments or would like to be added to the interested parties list for future updates, please contact [business@beverlyhills.org](mailto:business@beverlyhills.org).

Thank you,  
The OpenBH Team



**City of Beverly Hills**  
455 North Rexford Drive  
Beverly Hills, CA 90210  
[www.beverlyhills.org](https://www.beverlyhills.org)