



**Beverly Hills City Council Liaison /  
Open BH Code Changes and Fees Ad Hoc Subcommittee  
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  
2<sup>nd</sup> Floor Council Chamber  
Beverly Hills, CA 90210**

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

**Beverly Hills Liaison Committee Meeting  
<https://beverlyhills-org.zoom.us/my/adhoc>  
Meeting ID: 549 782 5652  
Passcode: 90210**

**You can also dial in by phone:  
+1 669 900 9128 US  
+1 877 853 5247 (Toll-Free)**

**One tap mobile  
+16699009128,,5497825652# US  
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**Thursday, May 5, 2022  
4:00 PM**

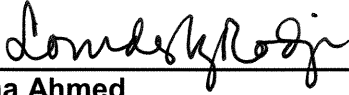
***Pursuant to Government Code Section 54953(e)(3), members of the Beverly Hills City Council Liaison / Open BH Code Changes and Fees Ad Hoc Subcommittee and staff may participate in this meeting via a teleconference. In the interest of maintaining appropriate social distancing, members of the public 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).***

**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 Conversion Code and Fee Structure Subcommittee Meeting #5
  - a. Review and discussion of potential draft code and fee changes including:
    1. Fees – Creation of new formula for public right-of-way rental fees
    2. Sidewalk Widths – Require 6 foot minimum clearance unless unavailable then a discretionary permit could be granted to allow a five foot minimum.

3) Future Agenda Items

4) Adjournment

for   
Huma Ahmed  
City Clerk

Posted: May 3, 2022

***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

### POLICY AND MANAGEMENT

#### MEMORANDUM

**TO:** Beverly Hills City Council Open BH Code Changes and Fees Subcommittee

**FROM:** Ryan Gohlich, Director of Community Development  
Timothea Tway, City Planner  
Laura Biery, Marketing and Economic Sustainability Manager

**DATE:** May 5, 2022

**SUBJECT:** Open BH Conversion Code and Fee Structure Subcommittee Meeting #5

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#### **INTRODUCTION**

This item provides the Councilmembers assigned to the Open BH Code Changes and Fees Subcommittee with an outline of the discussion points for today's meeting.

#### **DISCUSSION**

##### **Background**

At the September 21, 2021, City Council Study Session meeting, the City Council expressed interest in long-term conversion of outdoor dining currently allowed under OpenBH to enhance the City's economic sustainability and vitality by preserving the nightlife created. At the meeting, the City Council directed Staff to return to the full Council to discuss broad policy questions, and also approved the formation of two subcommittees:

- Subcommittee 1: Design and Operating Standards Subcommittee (Parklets)
  - Options for physical and aesthetic standards
- Subcommittee 2: Code and Fee Structure Changes Subcommittee (Open Air Dining)
  - Potential code changes for existing sidewalk dining
  - Fees for use of public right-of-way, installation of traffic control measures

Through the OpenBH program that was established during the COVID-19 pandemic, open air dining installations have been approved on a temporary basis that do not always conform to the Beverly Hills Municipal Code (BHMC) regulations for permanent open air dining. As restaurant owners seek to make their OpenBH open air dining permanent, it is necessary to review the existing permanent regulations to determine if changes to the code requirements, fees, or approval process are necessary or desired.

The Open BH Code Changes and Fees Subcommittee met for its first meeting on November 29, 2021, its second meeting on January 26, 2022, its third meeting on March 2, 2022, and its fourth meeting on April 4, 2022. During these discussions the Subcommittee considered several questions to guide a discussion about potential changes to permanent open air dining code regulations. The first discussions related to what type of outdoor dining should be allowed in the City, how much dining should be allowed and where, the relationship between indoor and outdoor dining, and sidewalk clearances required. The most recent discussions related to changes that

could be made to the process for obtaining an open air dining permit approval and fees charged for permanent open air dining installations. At the most recent meeting, the subcommittee provided feedback to staff on recommendations for code changes. The main comments received during the April meeting was that the subcommittee wanted to revisit the lease fees for use of the public right-of-way and requested more information about sidewalk widths. The purpose of this report is to provide the opportunity for the subcommittee to discuss these topics further. In addition, staff has included Attachment 1, which summarizes the current staff understanding of current direction.

### **Fees for Use of Public Right-of-Way**

At the previous meeting in April, staff presented an option for a tiered fee system for the use of the public right of way (sidewalk or street) for open air dining. Similar to the pricing for in-lieu parking spaces in the City, pricing for rental of sidewalk space would depend on the street upon which the restaurant is located. The following tiered system was presented taking into consideration current general rental fees for space on streets in the City, as well as the popularity of dining on certain streets. The fee scheme that was proposed is:

Three tiers would be established:

1. Tier 1: dining for restaurants located on Rodeo Drive, Canon Drive, North Beverly Drive, or in Beverly Canon Gardens
2. Tier 2: dining for restaurants located on other streets in the Business Triangle as well as South Beverly Drive
3. Tier 3: dining for restaurants located on Robertson Boulevard, Olympic Boulevard, La Cienega Boulevard, Wilshire Boulevard and South Santa Monica Boulevard.

Pricing previously proposed was as follows (cost per square foot/month):

Tier	Open Air Dining	Parklet Dining
Tier 1	\$3	\$5
Tier 2	\$2.25	\$3.5
Tier 3	\$1.5	\$2.5

At the April meeting, the feedback from the community and from the subcommittee members was that the fees proposed were too high. Information shared from other jurisdictions indicated that fees tend to be between \$1 and \$2 per square foot per month. Taking this feedback into consideration, staff has developed the following tiered system, with lease prices that are more similar to current pricing (between \$1 and \$1.60 per square foot per month, with no current fee established for parklets) and nearby jurisdictions:

Currently proposed fee (cost per square foot/month)

Tier	Open Air Dining	Parklet Dining
Tier 1	\$1.75	\$2.00
Tier 2	\$1.50	\$1.75
Tier 3	\$1.00	\$1.50

As a reminder, applicants with parklets that use metered parking spaces would also be required to pay the lost meter revenue. The subcommittee may wish to discuss whether to adjust these fees up or down.

### **Sidewalk Widths**

At the meeting in April, the subcommittee members asked staff to return with information on sidewalk width to better inform the discussions on open air dining. The sidewalk width on streets where open air dining is most likely to occur are as follows:

Street	Sidewalk Width (in Feet)
Bedford Drive in the Triangle	12 feet
Beverly Drive in the Triangle	12 feet
South Beverly Drive	20 feet
Brighton Way in the Triangle	10 to 16 feet
Canon Drive in the Triangle	15 feet
Crescent Drive in the Triangle	6 to 12 feet
La Cienega Boulevard	15 feet
Olympic Boulevard	15 feet
Robertson Boulevard	12 feet
Rodeo Drive in the Triangle	19 feet
South Santa Monica	10 to 15 feet
Wilshire Boulevard	15 feet

The regulations that were discussed at the April meeting, that the subcommittee generally supported was to require six feet of pedestrian clearance adjacent to an outdoor dining installation, unless an applicant indicates that they cannot provide six feet of clearance. In that case, a discretionary permit could be granted to allow a minimum five foot clearance. The subcommittee members did not come to a consensus on the staff recommendation that no open air dining should take up more than 50% of the sidewalk width. The subcommittee may wish to discuss whether the widths provided above impact whether or not there is interest in implementing the 50% threshold.

### **FISCAL IMPACT**

None at this time. To be evaluated at future meetings based on recommendations made by the Subcommittee. It should be noted the City Council took action on March 1, 2022 to extend the no-fee OpenBH program through December 31, 2022. Additionally, to keep the current open air dining program in parity with the OpenBH program, no rental fees are currently being charged for open air dining operators. New application fees are being accepted however the monthly lease fee is not being charged at this time.

### **RECOMMENDATION**

Staff recommends that the Subcommittee provide direction regarding the potential changes to the approval process and fees for permanent open air dining that were outlined in this report.

## **Attachment 1**

### **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.