



**Beverly Hills City Council Liaison /  
Open BH Code Changes and Fees Subcommittee 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  
Beverly Hills, CA 90210**

**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  
+18778535247,,5497825652# US (Toll-Free)**

**Monday, November 29, 2021  
5:30 PM**

***Pursuant to Government Code Section 54953(e)(3), members of the Beverly Hills City Council Liaison / Open BH Code Changes and Fees Subcommittee Ad Hoc Committee 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) Resolution of the Beverly Hills City Council Liaison / Open BH Code Changes and Fees Subcommittee Ad Hoc Committee authorizing public meetings to be held via teleconferencing pursuant to Government Code Section 54953(e) and making findings and determination regarding the same.

New legislation (AB 361) was recently adopted allowing the Beverly Hills City Council Liaison / Open BH Code Changes and Fees Subcommittee Ad Hoc Committee to continue virtual meetings during the COVID-19 declared emergency subject to certain conditions and the proposed resolution implements the necessary requirements.

- 3) Open BH Conversion Code and Fee Structure Subcommittee Meeting #1
- 4) Future Agenda Items
- 5) Adjournment



Huma Ahmed  
City Clerk

Posted: November 23, 2021

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



Pursuant to the Americans with Disabilities Act, the City of Beverly Hills will make reasonable efforts to accommodate persons with disabilities. If you require special assistance, please call (310) 285-1014 (voice) or (310) 285-6881 (TTY). Providing at least forty-eight (48) hours advance notice will help to ensure availability of services.



## STAFF REPORT

**Meeting Date:** November 29, 2021

**To:** Open BH Code Changes and Fees Subcommittee Ad Hoc Committee

**From:** Gabriella Yap, Secretary of the Open BH Code Changes and Fees Subcommittee Ad Hoc Committee

**Subject:** A RESOLUTION OF THE COUNCIL LIAISON / OPEN BH CODE CHANGES AND FEES SUBCOMMITTEE AD HOC COMMITTEE OF THE CITY OF BEVERLY HILLS AUTHORIZING PUBLIC MEETINGS TO BE HELD VIA TELECONFERENCING PURSUANT TO GOVERNMENT CODE SECTION 54953(e) AND MAKING FINDINGS AND DETERMINATIONS REGARDING THE SAME

**Attachments:** 1. Proposed resolution

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### **RECOMMENDATION**

Staff and the City Attorney's office recommend that the Council Liaison / Open BH Code Changes and Fees Subcommittee Ad Hoc Committee adopt a resolution making the following findings so that meetings of the City Council Liaison / Open BH Code Changes and Fees Subcommittee Ad Hoc Committee will be subject to the special Brown Act requirements for teleconference meetings: (1) the City Council Liaison / Open BH Code Changes and Fees Subcommittee Ad Hoc Committee has reconsidered the circumstances of the COVID-19 state of emergency; (2) the state of emergency continues to directly impact the ability of the members to meet safely in person; and (3) state or local officials continue to impose or recommend measures to promote social distancing.

### **FISCAL IMPACT**

The proposed resolution allowing the City Council Liaison / Open BH Code Changes and Fees Subcommittee Ad Hoc Committee greater flexibility to conduct teleconference meetings is unlikely to cause a greater fiscal impact to the City as the Council Liaison /

Open BH Code Changes and Fees Subcommittee Ad Hoc Committee has been conducting such teleconference meetings for over a year.

## **INTRODUCTION**

Governor Newsom recently signed new legislation (AB 361) allowing the City Council Liaison / Open BH Code Changes and Fees Subcommittee Ad Hoc Committee to continue virtual meetings during the COVID-19 declared emergency subject to certain conditions. These special requirements give the City greater flexibility to conduct teleconference meetings when there is a declared state of emergency and either social distancing is mandated or recommended, or an in-person meeting would present imminent risks to the health and safety of attendees.

## **BACKGROUND**

On March 4, 2020, Governor Newsom proclaimed a state of emergency to exist in California due to the spread of COVID-19. The Governor subsequently issued numerous executive orders suspending or modifying state laws to facilitate the response to the emergency. Among other things, these executive orders superseded certain Brown Act requirements and established special rules to give local public agencies greater flexibility to conduct teleconference meetings. Those special rules expired on September 30, 2021.

On September 16, 2021, in anticipation of then-imminent expiration of his special rules for teleconference meetings, the Governor signed AB 361. In key part, this bill amends the Brown Act to establish special requirements for teleconference meetings if a legislative body of a local public agency holds a meeting during a proclaimed state of emergency and either state or local officials have imposed or recommended measures to promote social distancing, or the body determines, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

AB 361 builds upon Executive Order (“EO”) N-29-20, issued by the Governor on March 17, 2020, which relaxed the teleconferencing requirements of the Brown Act to facilitate virtual meetings during the COVID-19 declared emergency. EO N-29-20’s provisions concerning public meetings applied through September 30, 2021.

AB 361 authorizes local agencies to continue meeting remotely without following the Brown Act’s standard teleconferencing provisions if the meeting is held during a state of emergency proclaimed by the Governor and either of the following applies: (1) state or local officials have imposed or recommended measures to promote social distancing; or (2) the agency has already determined or is determining whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

EO N-29-20 required legislative bodies to make remote public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body, and to make reasonable efforts to adhere as closely as reasonably possible to the provisions of the Brown Act. AB 361 adds new procedures and clarifies the requirements for conducting remote meetings as follows:

- Public Comment Opportunities in Real Time: A legislative body that meets remotely pursuant to AB 361 must allow members of the public to access the meeting via a call-in option or an internet-based service option, and the agenda for the remote meeting must provide an opportunity for members of the public to directly address the body in real time. Although the agency may still ask for public comments to be submitted in advance, the agency cannot require public comments to be submitted in advance of the meeting. If an agency does not provide a timed public comment period, but takes public comment separately on each agenda item, it must allow a reasonable amount of time per agenda item to allow members of the public the opportunity to provide public comment, including time to “be recognized for the purpose of providing public comment.”
- No Action During Disruptions: In the event of a disruption that prevents the local agency from broadcasting the remote meeting, or in the event of a disruption within the local agency’s control that prevents members of the public from offering public comments using the call-in option or internet-based service option, AB 361 prohibits the legislative body from taking any further action on items appearing on the meeting agenda until public access to the meeting via the call-in or internet-based options is restored.
- Periodic Findings: To continue meeting remotely pursuant to AB 361, an agency must make periodic findings that: (1) the body has reconsidered the circumstances of the declared emergency; and (2) the emergency impacts the ability of the body’s members to meet safely in person, or state or local officials continue to impose or recommend measures to promote social distancing. These findings should be made not later than 30 days after teleconferencing for the first time pursuant to AB 361, and every 30 days thereafter.

## **DISCUSSION**

To continue to hold meetings under these special teleconferencing requirements, the City Council Liaison / Open BH Code Changes and Fees Subcommittee Ad Hoc Committee needs to make two findings pursuant to Government Code Section 54953(e)(3). First, there must be a declared state of emergency and the City Council Liaison / Open BH Code Changes and Fees Subcommittee Ad Hoc Committee must find that it has reconsidered the circumstances of such emergency. Second, the City Council Liaison / Open BH Code Changes and Fees Subcommittee Ad Hoc Committee must find that such emergency continues to directly impact the ability of the City Council Liaison / Open BH Code Changes and Fees Subcommittee Ad Hoc Committee members to meet in person. Alternatively, for the second finding, the City Council Liaison / Open BH Code Changes and Fees Subcommittee Ad Hoc Committee must find that state or local officials continue to impose or recommend social distancing measures. These findings must be made within 30 days after the City Council Liaison / Open BH Code Changes and Fees Subcommittee Ad Hoc Committee teleconferences for the first time under AB 361 and every 30 days thereafter.

The declared emergency is still in effect. Furthermore, the State of California and the County of Los Angeles have recommended measures to promote social distancing. The Centers for Disease Control and Prevention continue to advise that COVID-19 spreads more easily indoors than outdoors and that people are more likely to be exposed to

COVID-19 when they are closer than 6 feet apart from others for longer periods of time. Additionally, the Los Angeles County Department of Public Health still encourages people at risk for severe illness or death from COVID-19 to take protective measures such as social distancing and, for those not yet fully vaccinated, to physically distance from others whose vaccination status is unknown. The County Health Department also continues to recommend that employers take steps to support physical distancing.

Please note that AB 361 applies to all legislative bodies. Therefore, Commissions and standing committees will need to also comply with the requirements of AB 361.

Gabriella Yap  
Secretary of the City Council Liaison /  
Open BH Code Changes and Fees  
Subcommittee Ad Hoc Committee

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Approved By

RESOLUTION NO. CCL-OBHCFC-01

RESOLUTION OF THE CITY COUNCIL LIAISON / OPEN BH  
CODE CHANGES AND FEES SUBCOMMITTEE AD HOC  
COMMITTEE OF THE CITY OF BEVERLY HILLS  
AUTHORIZING PUBLIC MEETINGS TO BE HELD VIA  
TELECONFERENCING PURSUANT TO GOVERNMENT  
CODE SECTION 54953(e) AND MAKING FINDINGS AND  
DETERMINATIONS REGARDING THE SAME

WHEREAS, the City Council Liaison/Open BH Code Changes and Fees Subcommittee Ad Hoc Committee is committed to public access and participation in its meetings while balancing the need to conduct public meetings in a manner that reduces the likelihood of exposure to COVID-19 and to support physical distancing during the COVID-19 pandemic; and

WHEREAS, all meetings of the City Council Liaison/Open BH Code Changes and Fees Subcommittee Ad Hoc Committee are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the Beverly Hills City Council Liaison/Open BH Code Changes and Fees Subcommittee Ad Hoc Committee conduct its business; and

WHEREAS, pursuant to Assembly Bill 361, signed by Governor Newsom and effective on September 16, 2021, legislative bodies of local agencies may hold public meetings via teleconferencing pursuant to Government Code Section 54953(e), without complying with the requirements of Government Code Section 54953(b)(3), if the legislative body complies with certain enumerated requirements in any of the following circumstances:

1. The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.
2. The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the

emergency, meeting in person would present imminent risks to the health or safety of attendees.

3. The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency in response to the COVID-19 pandemic (the “Emergency”); and

WHEREAS, the Centers for Disease Control and Prevention continue to advise that COVID-19 spreads more easily indoors than outdoors and that people are more likely to be exposed to COVID-19 when they are closer than 6 feet apart from others for longer periods of time; and

WHEREAS, the Los Angeles County “Responding together at Work and in the Community Order (8.23.21)” provides that all individuals and businesses are strongly encouraged to follow the Los Angeles County Public Health Department Best Practices. The Los Angeles County Public Health Department “Best Practices to Prevent COVID-19 Guidance for Businesses and Employers”, updated on September 13, 2021, recommend that employers take steps to reduce crowding indoors and to support physical distancing between employees and customers; and

WHEREAS, the Beverly Hills City Council has adopted a resolution that continues to recommend steps to reduce crowding indoors and to support physical distancing at City meetings to protect the health and safety of meeting attendees; and

WHEREAS, due to the ongoing COVID-19 pandemic and the need to promote social distancing to reduce the likelihood of exposure to COVID-19, the City Council Liaison/Open BH

Code Changes and Fees Subcommittee Ad Hoc Committee intends to hold public meetings via teleconferencing pursuant to Government Code Section 54953(e).

NOW, THEREFORE, the City Council Liaison/Open BH Code Changes and Fees Subcommittee Ad Hoc Committee of the City of Beverly Hills resolves as follows:

Section 1. The Recitals provided above are true and correct and are hereby incorporated by reference.

Section 2. The City Council Liaison/Open BH Code Changes and Fees Subcommittee Ad Hoc Committee hereby determines that, as a result of the Emergency, meeting in person presents imminent risks to the health or safety of attendees.

Section 3. The City Council Liaison/Open BH Code Changes and Fees Subcommittee Ad Hoc Committee shall conduct its meetings pursuant to Government Code Section 54953(e).

Section 4. Staff is hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. The City has reconsidered the circumstances of the state of emergency and finds that: (i) the state of emergency continues to directly impact the ability of the members to meet safely in person, and (ii) state or local officials continue to impose or recommend measures to promote social distancing.

Section 6. The Secretary of the City Council Liaison/Open BH Code Changes and Fees Subcommittee Ad Hoc Committee shall certify to the adoption of this Resolution and shall cause this Resolution and his/her certification to be entered in the Book of Resolution of the City

Council Liaison/Open BH Code Changes and Fees Subcommittee Ad Hoc Committee of this  
City.

Adopted:

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JULIAN A. GOLD

Presiding Councilmember of the City  
Council Liaison/Open BH Code  
Changes and Fees Subcommittee Ad  
Hoc Committee of the City of  
Beverly Hills, California



**CITY OF BEVERLY HILLS**  
**POLICY AND MANAGEMENT**

**MEMORANDUM**

**TO:** Beverly Hills City Council Open BH Conversion Code and Fee Structure Subcommittee

**FROM:** Gabriella Yap, Deputy City Manager  
Ryan Gohlich, Director of Community Development  
Timmi Tway, City Planner

**DATE:** November 29, 2021

**SUBJECT:** Open BH Conversion Code and Fee Structure Subcommittee Meeting #1

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**INTRODUCTION**

This item provides the Councilmembers assigned to the Open BH Conversion Code and Fee Structure 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

At the October 26, 2021, City Council Study Session meeting, the Council discussed broader policy questions and approved the following Guiding Principles for the Subcommittees:

- Safety
- Timeliness
- Design Standards
- Fiscal Sustainability
- Managing Competing Curbside Uses
- Balancing Public and Private Interests
- Community Outreach
- Avoid Creating Deterrents

In terms of Fiscal Sustainability as a Guiding Principle, the general consensus was that there be a broader view and it not be narrowly defined in monetary terms or cost recovery, but also the returns that come with vibrancy and nightlife. Additionally, there was general agreement to add a Guiding Principle that would in essence be Avoid Creating Deterrents in terms of the structure or systems, for example not establishing fees so high that it would be a barrier to entry. The Council also agreed that they would be willing to maintain the no fee status quo until through the first quarter of 2022 while the City and staff work on the conversion process. While the subcommittees have two different focus areas, there was Council agreement that the subcommittees have flexibility to delve into other areas.

### **Summary**

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.

At this time, it is recommended that the subcommittee discuss the current open air dining regulations, the difference between these regulations and what has been allowed under the OpenBH program, and determine what code changes, if any, are desired for the permanent open air dining program. In addition, it is recommended that at a future meeting, this subcommittee should consider if any changes should be made to the process for obtaining an open air dining permit approval and fees charged for permanent open air dining installations.

### **Anticipated process for subcommittee**

- Start with code regulations, then move to fees and process at future meetings. Regulations will ultimately help inform the discussion on process for approval of projects as well as fees.
- Developing and establishing code changes can take between 4 and 6 months. After subcommittee and City Council discussions, staff will draft code language, which will then be considered by Planning Commission and City Council prior to adoption.

### **Overview of current open air dining rules**

- Currently open air dining is only allowed in front of the restaurant space, it may not be expanded beyond the façade of the restaurant
- No dining is currently allowed in parking lots
- Currently the BHMC requires 5 feet of sidewalk clearance, however, more recently the policy has been to require 6 feet of clearance
- Railings are sometimes required for open air dining installations (if alcohol is being served, and/or if it is a larger open air dining installation)
- There is currently no maximum ratio between inside and outside dining
- Parking requirements – currently no additional parking is required for open air dining on public property (the sidewalk) and parking is required for open air dining on private property

### **Discussion questions for subcommittee**

The following questions are intended to guide the subcommittee discussion on potential code changes for open air dining. Staff has also included recommendations where appropriate.

- I. Should permanent (non OpenBH) open air dining be allowed beyond the restaurant space that it serves?
  - a. If so, under what conditions?
  - b. What happens if neighboring tenant changes and the new tenant no longer wants dining in front of storefront?
  - c. Should open air dining be allowed in parking lots, which results in the loss of parking spaces?
- II. Should the minimum sidewalk clearance width be changed?
  - a. Staff recommends requiring a wider path of travel (6 or 7 feet in order to accommodate increased pedestrian activity) and limiting open air dining installations to no more than 50% of the width of the sidewalk.
    - i. This could be a barrier to some restaurants on narrower sidewalks
  - b. Staff recommends discussing minimum width for path of travel if there is an open air dining installation in conjunction with a parklet dining installation at the same location
- III. Should there be a ratio of open air dining area to inside dining area?
- IV. Should the parking requirements for open air dining be changed?

### **FISCAL IMPACT**

None at this time. To be evaluated at future meetings.

### **RECOMMENDATION**

Staff recommends that the subcommittee provide direction regarding potential changes to the code regarding open air dining. At the next meeting of the Subcommittee, staff recommends that the Subcommittee discuss any open air dining process and fee changes that are desired.

George Chavez  
City Manager  
\_\_\_\_\_  
Approved By

Attachments: Open Air Dining Documents

# **Attachment 1**



**City of Beverly Hills**  
Community Development Department  
Planning Division  
455 N. Rexford Drive  
Beverly Hills, CA 90210  
Tel. (310) 285-1141  
Fax. (310) 858-5966

## **Open Air Dining Permit Planning Review Application**

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### **Application Overview:**

Before submitting a request for an Open Air Dining Permit, the Applicant should thoroughly review this application, as well as the Beverly Hills Municipal Code (BHMC), available online at [www.beverlyhills.org/zoning](http://www.beverlyhills.org/zoning). The Applicant should also consult with City staff that will be involved in reviewing and processing the application, primarily in the Community Development Department. Electronic copies of all Planning Review Applications are available on the City's Planning Division webpage at [www.beverlyhills.org/planningapplications](http://www.beverlyhills.org/planningapplications).

**Applications will not be accepted if they are not fully complete at the time of submittal.**

### **Application Table of Contents:**

There are six (6) parts to this application. Each section must be completed in its entirety, and all requirements must be met in order for this application to be accepted for filing.

- ❖ [Section 1](#) – Permit Review Process Overview
- ❖ [Section 2](#) – Property Information & Project Description
- ❖ [Section 3](#) – Owner Authorization & Applicant Team Contact Information
- ❖ [Section 4](#) – Supplemental Questions
- ❖ [Section 5](#) – Public Notice Requirements
- ❖ [Section 6](#) – Submittal Requirements & Checklist

### **Filing Fee:**

See current Planning Department Fee Schedule here:

[www.beverlyhills.org/planningapplications](http://www.beverlyhills.org/planningapplications) or call Community Development at (310) 285-1141.

### **Appointment & Staff Contact Information:**

Please contact staff to schedule an appointment to submit an Open Air Dining application. If you have questions about this application, please call (310)-285-1141, and ask to be directed to Current Planning, or visit the following website for staff contact information: [www.beverlyhills.org/contactplanning](http://www.beverlyhills.org/contactplanning).

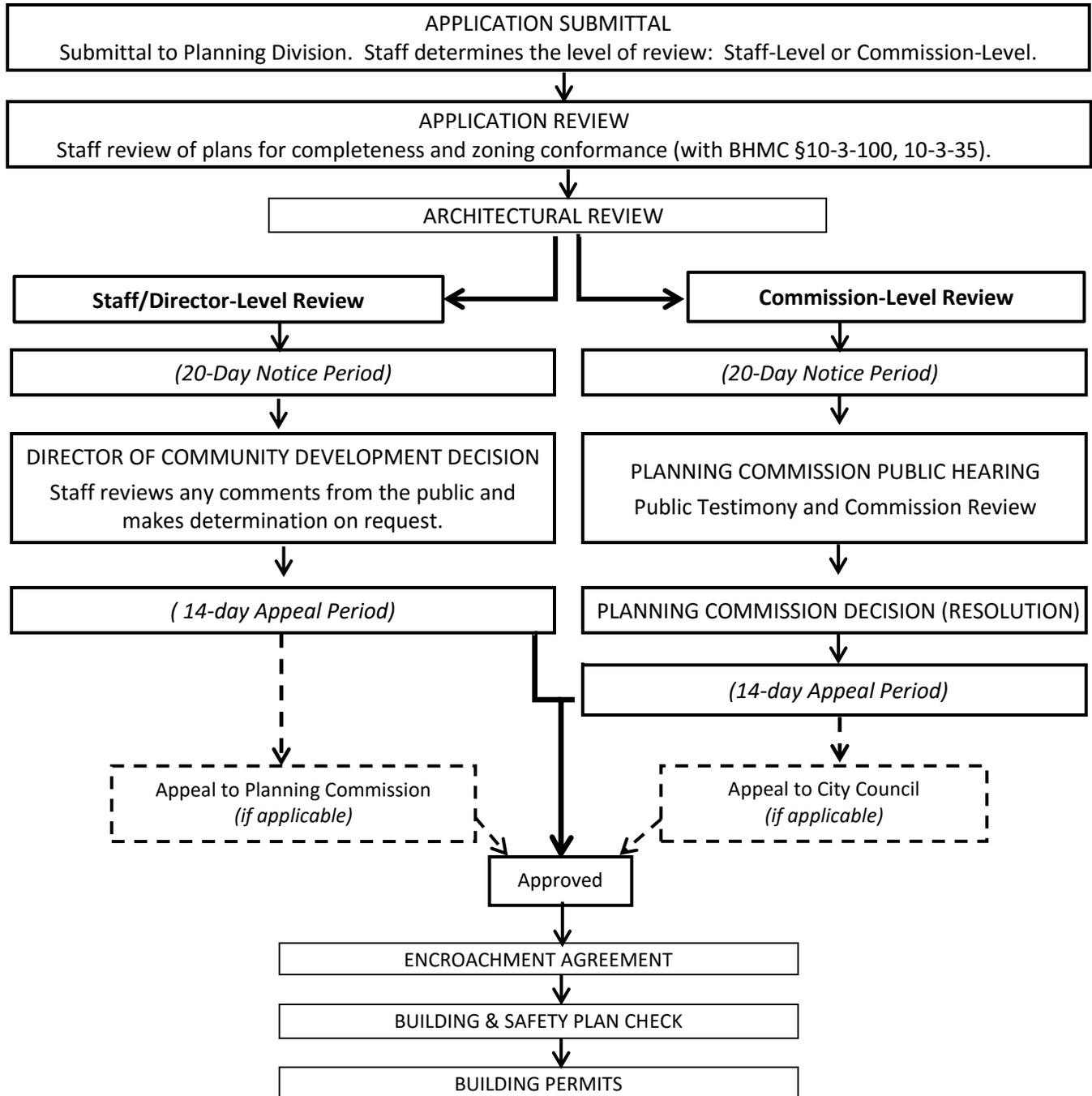
## Section 1 – Permit Review Process Overview

### **Open Air Dining Permit Review Process:**

An Open Air Dining Permit is required for any open air dining use established in the public right-of-way or on private property. The majority of Open Air Dining Permit cases are reviewed at the staff level and do not require a public hearing. If the project is located within a Transitional Use Area (170' of an R-1 or R-4 residential zone), and the project includes more than 12 outdoor chairs on private property, then the case must be reviewed by the Planning Commission. Additionally, any application may be forwarded to the Planning Commission for review at the discretion of the Director of Community Development. Where a case requires review by the Planning Commission, the process can be expected to take longer.

After staff determines an application is complete, staff will mail a public notice to nearby residents and property owners notifying them of the project and soliciting comments. After consideration of the project and any public comments received, a decision will be rendered on the Open Air Dining Permit application, based on the applicable review criteria defined in the Code. A Notice of Decision is then mailed to the nearby residents and property owners. Decisions may be appealed to the Planning Commission within 14 calendar days of the action, and Commission level decisions may be appealed within 14 calendar days of the action. Staff may establish conditions that the project must meet in order to maintain its approval.

## OPEN AIR DINING REVIEW PROCESS OVERVIEW



**Section 2 – Property Information & Project Description**

**A. Property Information**

Project Address:

Lot Area:  (square feet) Assessor Parcel Number(s):

**B. Proposed Open Air Dining Information:**

Proposed Area:  feet x  feet =  square feet

Area on public right-of-way:  square feet

Area on private property:  square feet

Total Existing Bar and Dining Floor Area of the Property:  square feet\*

(\*Include tenant spaces on the property that are not a part of the project, if applicable)

Existing Bar and Dining Area: Interior:  square feet | Exterior:  square feet

Proposed Additional Bar and Dining Area:

Interior:  square feet | Exterior:  square feet

<b>Proposed Open Air Dining Elements:</b>		
<b>Furniture</b>	<b>Existing</b>	<b>Proposed (Total)</b>
Chairs (Number)	<input type="text"/>	<input type="text"/>
Tables (Number)	<input type="text"/>	<input type="text"/>
Umbrellas (Number)	<input type="text"/>	<input type="text"/>
Railing (Linear Feet)	<input type="text"/>	<input type="text"/>
Other Furnishings (Type and Number) <i>i.e. Heaters, Planters, Speakers, Lighting</i>	<input type="text"/>	<input type="text"/>

NOTE: All elements of Open Air Dining are subject to Architectural Review.

Will alcohol be served in the open air dining area? Yes  No

Please note that if alcohol is proposed for the open air dining, a railing is required.

**C. Hours of Operation:** List the daily hours of operation (when open to the public):

NOTE: If an open air dining area is located within a Transitional Use Area (adjacent to residential properties), the operations are restricted to the following hours: Weekdays: 7AM – 10 PM, Weekends: 9 AM – 10 PM, unless longer hours are approved through an Extended Hours Permit.

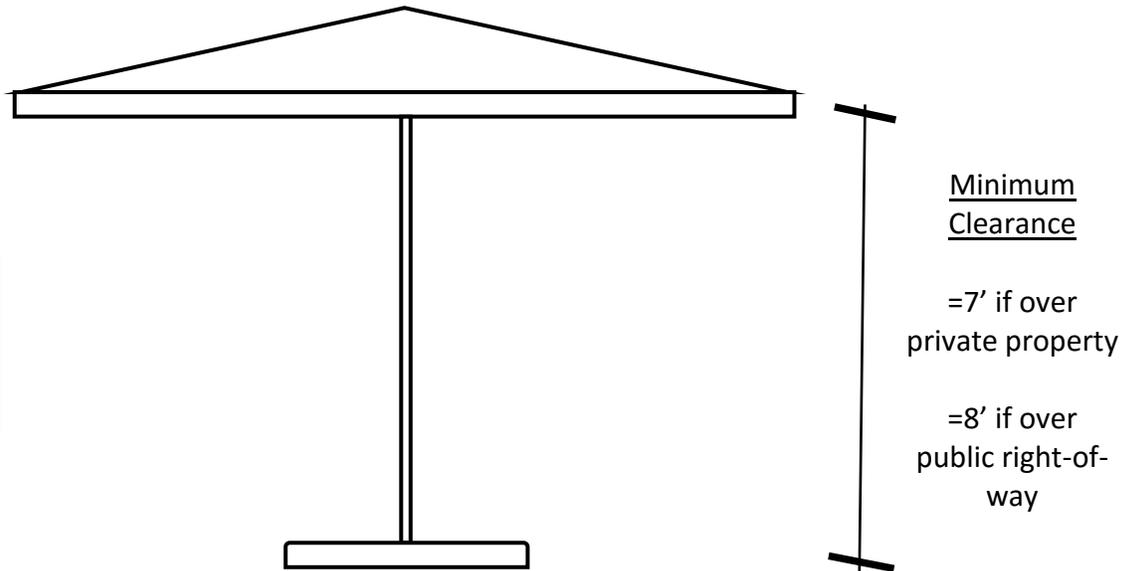
**D. Parking Requirements**

- No additional parking is required for open air dining located in the public right-of-way.
- Additional parking may be required at a rate of either: 1 parking space per 350 square feet or 1 parking space per 45 square feet of bar and dining area on private property.
- The Planning Commission **may** establish different parking requirements for dining areas located on private property if it is determined that:
  - a) The open air dining area will generate a need for parking that is different than the applicable code requirements; or
  - b) The parking needs are to be met by means other than on-site parking.

**If you are requesting that different parking requirements apply, please attach a statement as to why either 'a' or 'b' above applies in the space provided below.** Please see BHMC §10-3-2730 for additional information regarding parking requirements.

**E. Umbrellas:** Proposed umbrellas must meet the following required minimum clearances for the height of the lowest element (see figure below):

Are umbrellas proposed? Yes  No



**NOTE:**  
*No signage on umbrellas is permitted.*

**F. Railings:** All railings/barriers proposed to separate the dining area from the sidewalk must meet the following standards (check each to confirm compliance):

- Removable
- Maximum height of 42 inches
- Designed for a horizontal lateral load of 50 lbs. per foot applied to the top of the rail
- Post and Sleeve attachment/installation in the sidewalk
- Construction includes flush plugs to cover the holes of the sleeves when barrier is removed
- N/A – No railings/barriers proposed.

**G. Railing and Umbrella Combination:** If a railing is proposed in conjunction with an umbrella, the combination must meet the individual railing and umbrella standards, and the following (check to confirm compliance):

- Umbrella must be affixed to the railing
- N/A – No railing/umbrella combination proposed

**H. Accessibility:** Open air dining areas must meet accessibility requirements, including but not limited to:

- Knee Clearance – minimum 30” in width at 27” above the finish floor/ground for a depth of at least 19” (see Figure 1. below)
- Clear Floor or Ground Space for a wheelchair location – minimum 48” in length and 30” in width (see Figure 2. below)
- Ingress and Egress Path of Travel – minimum 36” maintained at all times

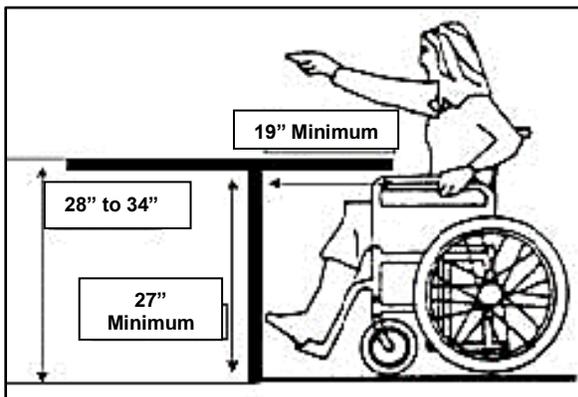


Figure 1. – Minimum Knee Clearance

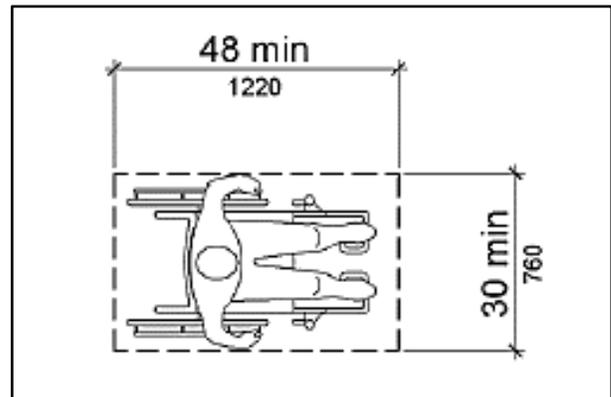


Figure 2. – Clear Floor or Ground Space

**Section 3 – Owner Authorization & Applicant Team Contact Information**

**A. Property Owner Information: <sup>1</sup>**

Name(s):

Address:

City:  State & Zip Code:

Phone:

E-Mail:

**<sup>1</sup> Ownership Information Requirements:**

In order to verify that the property owner has given consent to file this application, the following documentation must be submitted at the time of filing.

- ❖ Grant Deed – This is required if the Los Angeles County Assessor’s Records do not match the current ownership as listed on the application. The deed information should match the property owner as listed above.
- ❖ Letter of Authorization – This is required if the property owner does not sign the application. The property owner may instead provide a signed and dated letter in lieu of their original signature on this form, which must authorize the signatory of this application. Please see [Letter of Authorization Example](#) attached to this application.
- ❖ Ownership Entity Documentation – This is required if the property is owned by an entity rather than an individual. Please provide the applicable required documentation for the type of ownership entity, as shown in the table below.

Ownership Documentation Requirements		
Type of Property Owner	Required Ownership Documentation	Documents that May be Required (If Applicable)
Individual	N/A	Grant Deed, Letter of Authorization
Limited Liability Company (LLC)	Operating Agreement or Articles of Organization	Grant Deed, Letter of Authorization
Corporation	Articles of Incorporation, Bylaws, and/or Meeting Minutes	Grant Deed, Letter of Authorization
Limited Partnership (LP)	Partnership Agreement	Grant Deed, Letter of Authorization
Trust	Trust Instrument	Grant Deed, Letter of Authorization

**Property Owner Signature:**

Choice of Law. This document shall be deemed to have been made in the State of California and shall be construed, and the rights and liabilities of the parties determined, in accordance with the laws of the State of California.

I hereby certify under penalty of perjury under the laws of the State of California that I am the owner(s) of the subject property, or have been authorized to sign on behalf of the property owner, and consent to the filing of this application on the above-referenced property.

Executed on this  (Day) of  (Month) of 20  (Year)  
in  (City),  (State).

Dated:

BY: \_\_\_\_\_  
**(Signature)**

**(Title, Company)**

BY:   
**(Printed Name)**

*Additional Owner Signature (if applicable):*

Dated:

BY: \_\_\_\_\_  
**(Signature)**

**(Title, Company)**

BY:   
**(Printed Name)**

**Please indicate the role of the signatory(ies) above:**

Owner     Applicant     Agent/Representative

**If the owner did not sign above, is a Letter of Authorization provided\*?**

Yes     No

**\*Please note that a Letter of Authorization is required when the property owner does not sign this application, but instead has another individual sign on their behalf. See [Letter of Authorization Example](#) at the end of this application for reference. Please also note that if this application will be heard by the Planning Commission or City Council, the property owner will be required to record a Covenant & Agreement to accept the conditions of approval, if applicable.**

**B. Applicant Information** *[Individual(s) or entity benefitting from the entitlement]*

(Only provide if different from Property Owner)

Name(s):	<input type="text"/>		
Address:	<input type="text"/>		
City:	<input type="text"/>	State & Zip Code:	<input type="text"/>
Phone:	<input type="text"/>		
E-Mail	<input type="text"/>		

**C. Agent/Representative Information** *[Individual acting on behalf of the Applicant]*

Name(s):	<input type="text"/>		
Company/Firm:	<input type="text"/>		
Address:	<input type="text"/>		
City:	<input type="text"/>	State & Zip Code:	<input type="text"/>
Phone:	<input type="text"/>		
E-Mail	<input type="text"/>		

**D. Please indicate who will be the main point of contact for the project:**

Owner       Applicant       Agent/Representative       Architect

**Section 4 –Supplemental Questions**

**Are there any outstanding Code Enforcement citations on the property?**

Yes     No     If yes, please attach copies.

**Are there any recorded easements or encumbrances on the property?**

Yes     No     If yes, please attach copies. Show easements on survey plan.

## Section 5 – Public Notice Requirements

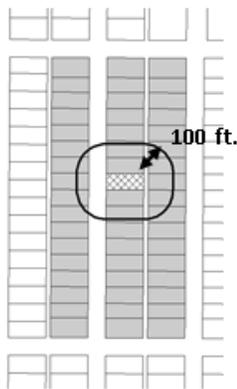
The public notice requirements for all planning applications are located in the Beverly Hills Municipal Code §10-3-2.5. The Public Notice Guidelines ([www.beverlyhills.org/publicnotice](http://www.beverlyhills.org/publicnotice)) document contains more detailed information about fulfilling the noticing requirements for applications. It is recommended that Applicants reference these Guidelines.

**NOTE:** Please note, mailed notices must be sent to all properties on any block-face intersected by the notification radius. The following notice information is required for Public Noticing of an Open Air Dining Permit:

### RADIUS MAPS

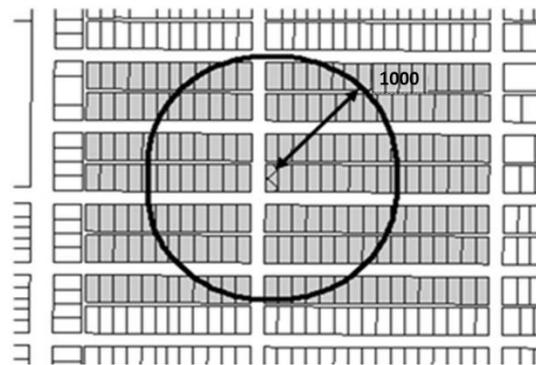
- ❖ **Two (2) copies** of a map showing the appropriate radius around the subject site and number each parcel touched by that radius consecutively. Include all the adjacent lots that the radius line touches. **All ground floor businesses within 50' of the project site must be included in all public notice mailings.** Open Air Dining Permit applications can be considered at either the Staff Level or Commission Level, for which the respective radii are listed below. See the illustration below (Noticed properties are shaded):

#### Staff/Director-Level Review:



Required Mailing: 100' Radius + Block-Face

#### Commission-Level Review:



Required Mailing: 1000' Radius + Block-Face

### MAILING LABELS

- ❖ **Two (2) sets** of mailing labels with the names and addresses of all property owners and occupants of properties identified in the radius map, as well as ground floor businesses within 50' of the project site. (PROPERTY OWNER INFORMATION MUST BE OBTAINED FROM THE MOST CURRENT LOS ANGELES COUNTY TAX ASSESSOR'S ROLL). If the project is Commission-Level, **one (1) set** of mailing labels is required.
- ❖ Labels must be dated within 6 months from the date that the mailed notice is sent. If the mailed notice is sent outside of this period, please note that updated labels may be required.
- ❖ Labels must be numbered to correspond to the assigned numbers on the radius map.
- ❖ Labels must be on 8.5" by 11" self-adhesive sheets.
- ❖ DO NOT abbreviate city names (U.S. Postal Service Request).
- ❖ Provide a CD containing the mailing label information in Excel format.

### MAILED NOTICE AFFIDAVIT

- ❖ Complete and sign statement that the labels and maps are complete and current (see [Mailing Affidavit](#) at end of application).

### POSTED NOTICE AFFIDAVIT

- ❖ Post the Notice of Intent to File for an Open Air Dining Permit on project site (see [Notice of Intent](#) form at end). Complete and sign the affidavit stating that the Notice of Intent to File has been posted on-site (see [Posted Notice Affidavit](#) at end). Evidence of posting: please submit photos of the Notice of Intent to File for an Open Air Dining Permit both up close and in context.

**Section 6 – Submittal Requirements & Checklist**

**Architectural Plans Required:**

- **Staff/Director-Level Review: three (3) 11”x 17” sets** of architectural plans are required.
- **Planning Commission Review: ten (10) 11”x 17” sets** of architectural plans are required for initial submittal. *\*Please note that additional sets at a larger size (12”x 18” or 18”x 24” or 24”x 36”) may be requested by the Planner.*
  - **All plan sets** must be stapled, **drawn to scale**, and legible.
  - **All plan sheets** must include an architect title block, a graphic scale, the owner’s or authorized agent’s name, address, and telephone number, the project address, and a North Arrow.
  - The following plans in the checklist must be included in the architectural plan set. *Inconsistency between drawings, renderings, materials, etc., will be considered an incomplete submittal. Only complete applications will be accepted for filing.*

**NOTE:** All plans must be printed to scale and be legible.

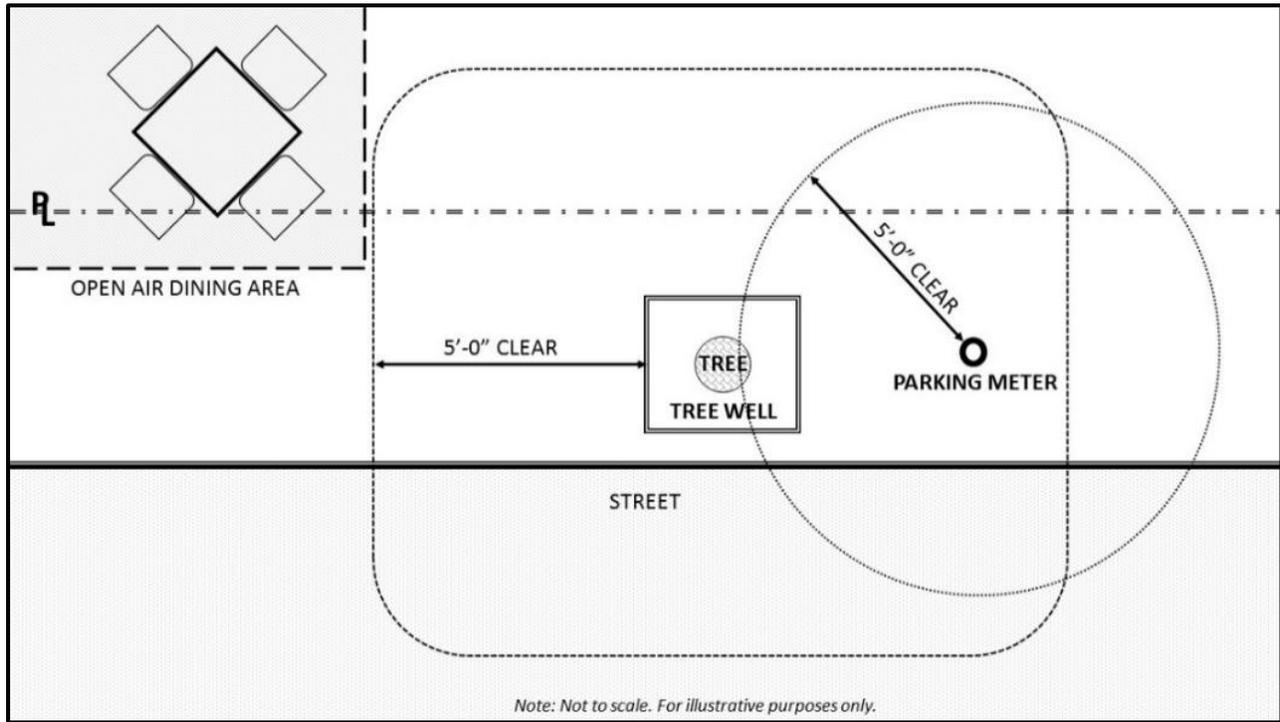
Applicant  
Checklist

Staff  
Verification

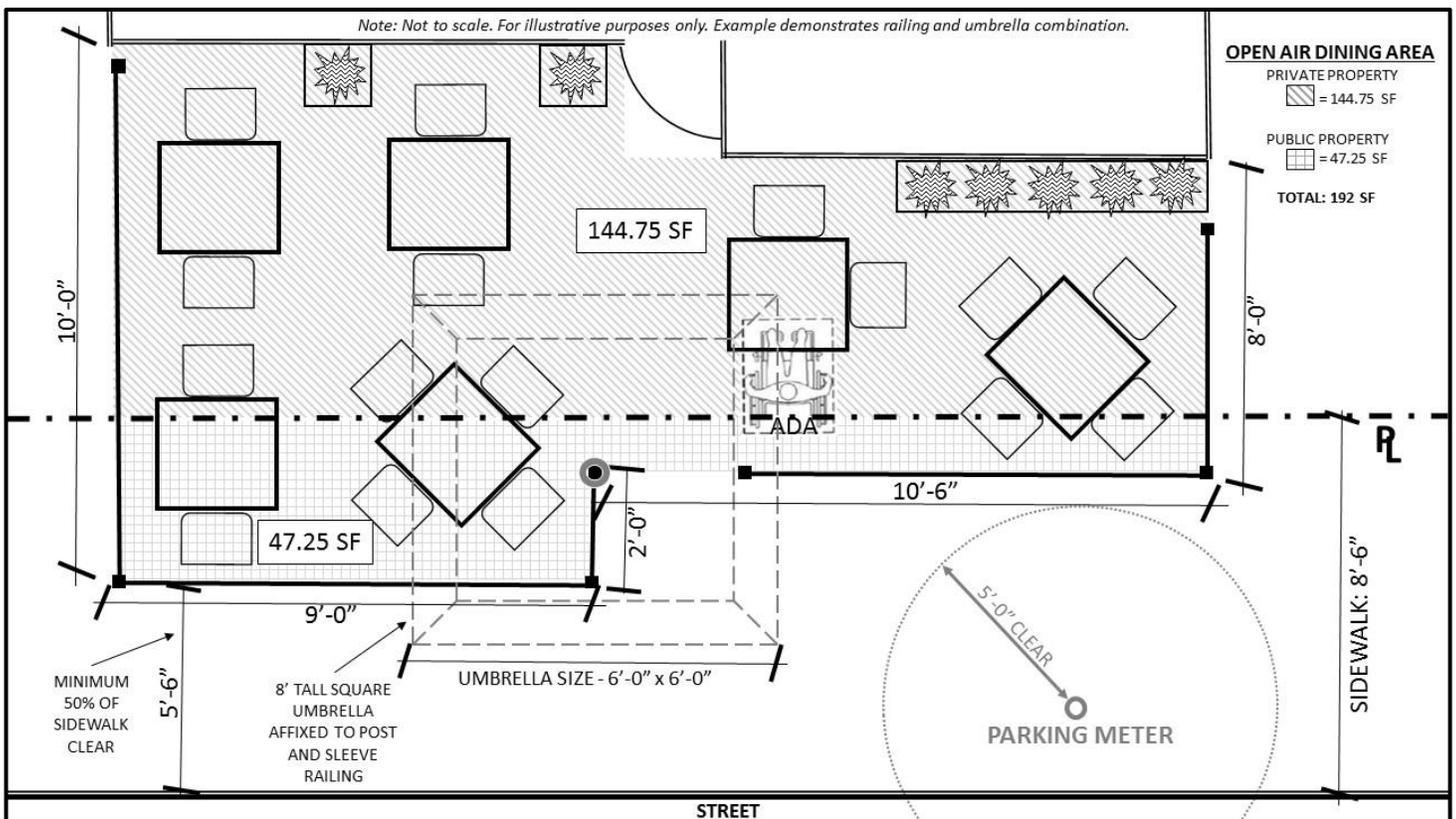
**PLOT PLAN:**

- Show entire parcel (indicate square footage of property) and label all property lines.
- Include labels and dimensions for all existing and proposed structures including railings, fences, and umbrellas.
- Show code-required setbacks (front, sides and rear).
- Parking spaces required and provided.
- Indicate location and width of sidewalks.
- Show location of any public or private easements, curb cuts, and any obstructions in the public right-of-way, including utilities, tree wells, light fixtures, benches, parking meters, street trees, street lights, traffic lights, trash cans, mail boxes, bike racks, valet stands, or other impediments that might affect or be affected by the proposal.
  - A minimum 5’ clearance is required in the public right-of-way around all obstructions. Draw a 5’ radius around each obstruction (see Obstruction Radius Example below).
  - Label the width of the sidewalk and show a minimum of fifty percent (50%) of the sidewalk width has been reserved for pedestrians as part of the public right-of-way, and will remain unobstructed by elements of the proposed outdoor dining area.
- If there are multiple tenant spaces located on the subject property, show square footages of all spaces.
- Show dashed line around proposed furniture to generally outline the area that will be utilized for dining, and dimension as a rectangle. Determine and note the square footage of the area if no railing is proposed.
- See Open Air Dining Diagram Example below for a railing and umbrella combination.

Obstruction Radius Example



Open Air Dining Diagram Example



- TRANSITIONAL USE LICENSE:** 
  - All businesses within 170’ of a residential zone must submit or maintain with the City a Transitional Use License ([www.beverlyhills.org/planningapplications](http://www.beverlyhills.org/planningapplications)).
  - Check if not applicable - .
  
- FLOOR PLANS:** 
  - Provide fully dimensioned existing and proposed floor plan of the restaurant.
  - Include ingress/egress to the restaurant.
  - Show the interior layout of the adjacent restaurant, including seating arrangements, back of house, and food preparation areas.
  - In case of a remodel, include a demolition plan.
  
- ELEVATIONS:** 
  - Show elevations of the outdoor dining area to scale at the same elevation as the sidewalk.
  - Label existing structures to remain and the proposed structures and furniture.
  - Indicate the height of all structures and furniture.
  - Show the location of exterior light fixtures to scale.
  - Show all proposed signage, to scale.
  - Show adjacent structures on neighboring properties. Include any existing doorways and outdoor dining areas. Indicate heights and distances between adjacent structures and the proposed open air dining area.
  
- ARCHITECTURAL REVIEW REQUIREMENTS:** 
  - All open air dining applications are subject to Architectural Review if changes will be visible from the public right-of-way. Please complete the [Architectural Review Application](#) attached to this packet).
  - Provide industry tear sheets for the exact furniture being proposed are required for the Architectural Review to be completed. They must illustrate the materials, colors, design, and dimensions of proposed tables, chairs, umbrellas, railings, and all other furniture.
  
- PHOTOGRAPHS:** 
  - The applicant shall outline the perimeter of the proposed outdoor dining area on the sidewalk in front of the existing restaurant with removable tape, and provide photographs of the full dining area to assist staff and the public in visualizing the project in relation to the storefront and sidewalk.
  - Provide photos of the posted notice, both close-up and in context.



**CERTIFICATE OF INSURANCE:**



- All applicants must hold and maintain a minimum insurance coverage of \$2,000,000 general liability for each occurrence, \$2,000,000 aggregate, and \$1,000,000 in worker’s compensation in conjunction with the operation of open air dining on public property.
- The City of Beverly Hills must be listed as the “Certificate Holder” or “Additional Insured” on the insurance policy. An example Certificate of Insurance is available here: <http://www.beverlyhills.org/CertificateofInsurance>.



**ADDITIONAL INFORMATION:**



Staff may require additional information in order to process the application. Please consult with staff prior to submittal to determine if additional information is required. Additional information may include, but is not limited to:

- Traffic Study
- Parking Study
- Noise Study
- Light Study
- Additional Environmental Review
- Landscape Plan
- **Public Health Inspection:** Approval from the Los Angeles County Department of Public Health’s Environmental Health Division may be required for any outdoor seating areas in order to begin operating. More information is available at <http://publichealth.lacounty.gov/eh/> or by telephone at (213) 351-7896.
- **Alcohol:** No alcohol service is permitted unless approval is obtained from the California Department of Alcoholic Beverage Control (ABC). Obtain more information via email at [igw.direct@abc.ca.gov](mailto:igw.direct@abc.ca.gov) or by telephone at (310) 412-6311.
- **Fees:** Please note that applicants must pay the following additional fees upon approval:
  - A one-time sewer fee based on the number of approved seats is required by Los Angeles County. These fees vary, but typically cost \$200-\$300 per seat.
  - An ongoing monthly rental fee that will be assessed annually on a square-foot basis for use of public property (please note: the 1<sup>st</sup> year’s rent is included in the submittal fees).
  - If the project includes a railing or barrier, a refundable sidewalk restoration guarantee deposit is required to cover potential City costs related to removal of the outdoor dining area and sidewalk repairs. The deposit is \$2,500 for up to 150 square feet of dining area and \$10 for each additional square foot.
  - Standard application fees are available in the City’s fee schedule at [www.beverlyhills.org/planningapplications](http://www.beverlyhills.org/planningapplications).

**Mailing List Affidavit**

**MAILING LIST AFFIDAVIT**

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES    )     ss  
CITY OF BEVERLY HILLS        )

**Level of Review (Check One):**

- Staff/Director Level (Notice: 100' plus block face)
- Planning Commission (Notice: 1000' plus block face)

I, , hereby certify that, to the best of my knowledge and under penalty of perjury, the attached Ownership List correctly shows the names and addresses of all persons to whom all property is assessed, as they appear on the most current Los Angeles Tax Assessor's roll, within the area described on the attached application and for a distance of  feet extended out the block face from the exterior boundaries of the property described on the attached application.

I further certify that, if required pursuant to the attached application, the attached Occupants List reflects all residential addresses within  feet extended out the block face from the exterior boundaries of the property described on the attached application that are not owner occupied.

I further certify that, if required pursuant to the attached application, the attached Occupants List reflects all ground floor business occupants within **fifty feet (50')** of the exterior boundaries of the property described on the attached application that are not owner occupied.

I certify under penalty of perjury that the foregoing is true and correct.

Signed

Date



**Letter of Authorization Example**

[OWNERSHIP ENTITY LETTERHEAD]

[ADDRESS]

Date: [ ]

City of Beverly Hills  
Community Development Department  
Planning Division  
455 N. Rexford Drive  
Beverly Hills, CA 90210

To Planning Division Staff:

This letter is to verify that [ ] (Name of Agent/Representative), [ ], [ ] (Company),(Title) is hereby authorized to sign and complete Planning Review Applications as required by the City of Beverly Hills Community Development Department, on behalf of the Owner, [ ] (Name of Owner), [ ], [ ] (Company),(Title) of the real property located at [ ] (Address), which is legally described as [ ] (Tract, Lot(s), Block(s)).

By signing this form, I hereby declare (*choose one*):

I am the owner of record of the aforementioned real property.

**OR**

I have been empowered to sign on behalf of the ownership entity, [ ]

(Entity Name), as the [ ] (Title), as evidenced by the attached documents (*attach applicable required ownership documentation as shown in the table on page 8 of this application*).

**By my signature below, I declare under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct.**

Signature: [ ] Print Name: [ ]

Title, Entity: [ ], [ ]

**CITY OF BEVERLY HILLS  
ADMINISTRATIVE ARCHITECTURAL REVIEW APPLICATION**

**Project Address:**

**Project Name (business or building):**

**Project Description:**

(Please check as many boxes below as apply/attach sheets if needed for full description.)

**FAÇADE REMODELS/NEW STRUCTURES/ADDITIONS**

New construction or increases in floor area: Total NEW floor area (sq. ft.)

Remodeling of exterior (no floor area):  facade  sides, rear, roof

**SIGNS**

Signs: Dimensions (height x length)  x  = (area in square feet)

Dimensions (height x length)  x  = (area in square feet)

Dimensions (height x length)  x  = (area in square feet)

Total number of signs requested:

Sign Accommodation/Unified Sign Plan

**OTHER**

Awnings:  New  Recovery  w/signs (letter height in inches: )

Landscape (including planter boxes)  Conformity Review

Painting/stucco (**NO FEE**):  repainting OR restucco  no color change

Revision to existing approval (check one):  Staff  Commission

Open Air Dining:  Tables  Chairs  Umbrellas  Railings  Other feature:

**Property Owner**

**Applicant or Agent**

Name:

Name:

Address:

Address:

City:

City:

State & Zip Code:

State & Zip Code:

Phone:

Phone:

\*E-Mail:

E-Mail:

(\*Required for e-mail notification of project status)

I have read and understand all statements. I hereby declare (affirm) that the foregoing statements, facts, and attached plans and materials are true and correct.

Signature of Property Owner or Authorized Agent

Date

**(If NOT property owner, a Letter of Authorization will be required before processing the application.)**



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# NOTICE

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## INTENT TO FILE FOR AN OPEN AIR DINING PERMIT

This is to give notice of the intent of the owner of this business to seek an Open Air Dining Permit for:

- Seating of up to 12 chairs
- Seating for more than 12 chairs
- Permanent railing enclosure

The application will be processed by:

Community Development Department - Planning Division  
455 North Rexford Drive, Beverly Hills, California 90210.

Name of Business

Date

For more information: (310) 285-1141, [www.beverlyhills.org/planning](http://www.beverlyhills.org/planning)