



**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 North Rexford Drive
2nd Floor Room 280A
Beverly Hills, CA 90210**

**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)**

**Wednesday, April 6, 2022
11:00 AM**

In the interest of maintaining appropriate social distancing, members of the public can view this meeting through live webcast at 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 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 Subcommittee. Beverly Hills Liaison meetings will be in-person at City Hall.

AGENDA

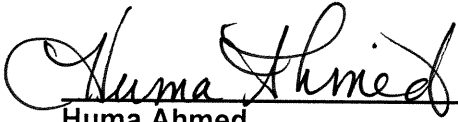
- 1) Public Comment
 - a. Members of the public will be given the opportunity to directly address the Committee on any item listed on the agenda.

- 2) Open BH Conversion Code and Fee Structure Subcommittee Meeting #4
 - a. Review and discussion of potential draft code and fee changes including:
 1. *Location of Open Air Dining* – Allowing open air dining to extend beyond the façade of the restaurant in certain cases.
 2. *Parking Requirements* – Not requiring additional parking for open air dining.

3. *Path of Travel* – Increasing minimum path of travel to 6 feet.
4. *Approval Process for Open Air Dining* – Changing the thresholds for level of review and approval.
5. *Renewal of Permit* –expanding the renewal allowances.
6. *Fees* – Creation of new formula for public right-of-way rental fees.

3) Future Agenda Items

4) Adjournment


Huma Ahmed
City Clerk

Posted: March 31, 2022

***A DETAILED LIAISON AGENDA PACKET IS AVAILABLE FOR REVIEW AT
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. City Hall, including Room 280A, is wheelchair accessible.



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: April 6, 2022

SUBJECT: Open BH Conversion Code and Fee Structure Subcommittee Meeting #4

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, and its third meeting on March 2, 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 discussion 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.

Recommended Discussion on Process and Fees

Staff has taken the feedback from the liaisons and the public, and synthesized the comments to develop recommendations that memorialize the changes to the BHMC that were discussed. A summary of these changes is provided below.

Regulations for Open Air Dining

The main changes proposed for the regulation of open air dining at this time are as follows:

Location of Dining

Allow open air dining to extend beyond the façade of the restaurant that it serves in certain cases.

- How is this different than current rules?
 - Current rules restrict open air dining to the area immediately adjacent to the restaurant that it serves.
- What is the purpose of this change?
 - This would allow restaurants, with permission from neighboring tenants and property owners, to expand outdoor dining and provide additional space for dining.
- How will this work?
 - 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.

- How is this different than current rules?
 - Currently, open air dining on private property requires the provision of parking at the same rate as indoor dining space.
- What is the purpose of this change?
 - This change would remove a potential barrier to the provision of open air dining on private property. In addition, the 40 foot provision would encourage open air dining on a site to be situated toward the front of the building, which would activate the streetscape. This provision will also help simplify the approval process in order to allow ministerial approval of more open air dining installations in the City. When open air dining has the potential to add to the required parking on the site, this can lead to the need to research the property, parking provided on the site, other uses in the building, and history of the project site. This required research could make it difficult to allow efficient ministerial review of such projects.

Path of Travel

Require a minimum six foot path of travel on the sidewalk for pedestrians. In addition, limit open air dining on the public right-of-way to no more than 50% of the width of the sidewalk upon which it is located.

- How is this different than current rules?
 - Current regulations only require a minimum five foot path of travel on sidewalks for pedestrians, and there is no limit on the maximum percentage of sidewalk width that may be occupied.
- What is the purpose of this change?
 - The purpose of this change is to provide for a wider path of travel on sidewalks adjacent to open air dining installations, and to ensure that open air dining installations do not take up a majority of the sidewalk width.
- How will this work?
 - Plans for open air dining will be checked to ensure that a six foot wide path of travel is being maintained for pedestrians. As is currently the case, nothing may encroach into this required path of travel. Existing open air dining installations that do not have a six foot wide path of travel will be considered legally nonconforming and may keep their currently approved configuration, until the open air dining permit is up for renewal. At that time, the open air dining will be required to be redesigned to conform with the changed path of travel regulations.

Changes to Umbrella and Barrier Standards

Staff is proposing changes to the code language related to umbrella and barrier standards. These changes require that umbrellas be integrated into railings and barriers when possible and specify that umbrella bases may not be located outside the open air dining area. In addition, barriers would be required for open air dining installations with more than eight seats, unless a discretionary permit is obtained (this would be useful for unique properties that may not be able to physically include a barrier due to sidewalk constraints).

- How is this different than current rules?
 - Currently the code states that barriers may be required for open air dining installations that include more than 12 seats.
- What is the purpose of this change?
 - The purpose of this change is to require more barriers for open air dining installations. Barriers can help define the open air dining area on the sidewalk, and can help prevent open air dining furniture from encroaching into the required path of travel. The language changes related to umbrellas are proposed in order to attempt to address issues related to umbrella bases encroaching into the required path of travel.

Approval Process for Open Air Dining

Initial Approval

Staff is proposing to allow more open air dining to be approved ministerially (without discretionary review). Ministerial projects do not require public noticing, and can be approved at the public counter. 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 infrastructure or utilities.

Projects that do not meet these standards would require discretionary review at the staff level, or may be forwarded to the Planning Commission for review at the Director’s discretion. This discretionary review would include public noticing. The noticing is proposed to include a posted sign on the property that will remain in place from shortly after the application is submitted to the City, until the appeal period for the decision is over (14 days after the decision is made). 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.

- How is this different than the current process?
 - The current approval process does not have a mechanism for ministerial approval of open air dining installations.
- What is the purpose of this change?
 - Creating a ministerial process for approval can help remove the time and cost barriers for open air dining installations that are related to discretionary review. Staff developed the ministerial standards based on several decades of experience regarding characteristics of dining that tends to have minimal impact on neighboring properties. In addition, creating a ministerial process with a set of objective standards for open air dining installations can act as an incentive for applicants to meet these standards in order to take advantage of the ministerial process.

Renewal of Permit

Staff is proposing that open air dining permits 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.

- How is this different than current rules?
 - Currently the code requires permits be renewed after five years, but only allows for one renewal. After the initial renewal, the open air dining applicant must obtain a new open air dining permit.
- What is the purpose of this change?
 - The purpose of this change is to allow successful open air dining installations to seek and receive renewals every five years, without having to reapply for a permit every 10 years. 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.

Fees

Staff is proposing the following based on previous Liaison discussions. The fee for rental of the public right of way (sidewalk) would be charged based on a tiered system. 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 established taking into consideration current general lease rates for tenant spaces on streets in the City, as well as the popularity of dining on certain streets. The fee scheme is proposed as follows:

Three tiers would be established:

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

Pricing could be as follows (cost square foot/month):

Tier	Open Air Dining	Parklet Dining*
Tier 1	\$3.00	\$5.00
Tier 2	\$2.25	\$3.50
Tier 3	\$1.50	\$2.50

*Parklets that use metered spaces would be required to pay the lost meter revenue in addition to the monthly lease cost for the space. This is estimated to be around \$300 per month, per metered space.

- How is this different than current rules:
 - Current regulations are not based the location of a restaurant. Currently, all projects utilizing the public right of way are required to pay a rental fee of \$1.55 per square foot per month (if the installation has a railing/barrier) and \$1.07 per square foot per month (if the installation has no railing/barrier).
- What is the purpose of this change?
 - The proposal is based on direction from the liaisons that the fees for open air dining should more closely reflect the cost of indoor dining, and that the fee should be variable based on geography. In order to develop the proposed fees in the table above, staff looked at a rough average of current rental rates for properties on commercial corridors in the City. The rate for “open air dining” is approximately 30% of the cost per square foot of the average of rent for interior space. The rate for “parklet” space is roughly 50% of the cost per square foot of the average of the rent for interior space. Staff is proposing to make the fee for open air dining with/without a barrier the same, and not charge more for dining with a barrier. This would both simplify the fee structure, and also encourage the provision of more barriers by charging the same fee for dining with/without a barrier. It should be noted that the rental rates used to develop these fees are rough estimates for various commercial streets based on discussions with several brokers in the City. Estimated rents for Rodeo Drive were not included in the calculations as they were considerably higher than the other streets.

Parklets

It should be noted that regulations and process details related specifically to parklets will depend on the outcome of the work of the Design and Operating Standards Subcommittee. Staff will develop code change recommendations based on the outcome of the discussions of the subcommittee.

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.