



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: FEBRUARY 21, 2023

FROM: PUBLIC WORKS DEPARTMENT WARDS: ALL

SUBJECT: ADOPT A RESOLUTION ESTABLISHING A SIDEWALK CAFÉ PROGRAM INCLUDING AN OPTIONAL EXTENSION FOR RESTAURANTS OPERATING A PERMITTED TEMPORARY OUTDOOR FLEX SPACE FOR DINING PURPOSES

ISSUE:

Adopt a resolution establishing a Sidewalk Café Program including an optional extension for restaurants operating a permitted Temporary Outdoor Flex Space for dining purposes.

RECOMMENDATIONS:

That the City Council:

1. Adopt a Resolution establishing a Sidewalk Café Program; and
2. Approve an Encroachment Permit fee waiver for Category 1 Sidewalk Café Program applicants; and
3. Approve an optional extension for restaurants operating a permitted Temporary Outdoor Flex Space for dining purposes.

BACKGROUND:

In response to COVID-19, in May 2020, the City Manager issued an order to establish the *Temporary Outdoor Flex-Space Permit Program for Restaurants* allowing eateries to temporarily establish outdoor dining within the public right-of-way and on private property while adhering to safety and physical distancing guidelines. The order was ratified by City Council on June 2, 2020. Since then, the program has expanded and was renamed to the *City of Riverside Temporary Outdoor Flex-Space Permit Program* to allow businesses categorized as “lower risk workplaces” by the State’s Resilience Roadmap to apply for a permit.

On February 8, 2021, staff was provided with feedback from the Land Use, Sustainability, and Resilience Committee regarding drafting a Request for Proposals (RFP) to develop an Outdoor Dining Program.

On June 15, 2021, the State reopened to full capacity and businesses no longer had to adhere to social distancing rules or be limited by capacity restrictions. Additionally, the City Council

established a 30-day extension for the Temporary Outdoor Flex Space Program and an Entertainment Permit Grace Period.

On July 12, 2021, staff presented the draft RFP to the Land Use, Sustainability, and Resilience Committee which sought an urban design firm to prepare a Long-term Outdoor Dining Program. The firm would have provided a comprehensive document that addressed the Committee's feedback, generated design standards, considered a fee schedule, scheduled community engagements and surveys, and outlined permit requirements and guidelines for the Main Street Pedestrian Mall, Central Business District, and other Citywide locations.

On September 27, 2021, staff initiated the review of a single response to the RFP, and the proposal significantly exceed the budgeted amount.

On October 8, 2021, the Governor signed Senate Bill 314, Senate Bill 389, and Assembly Bill 61 into law. These laws collectively extended certain State-level approvals associated with outdoor dining, and the sale of alcohol as part of outdoor dining, for one year following the expiration of the state of emergency (which as of this writing is anticipated to occur on February 28, 2023), in addition to extending the sale of "to-go" alcohol with meals through December 2026.

On June 13, 2022, and subsequently on November 14, 2022, discussion of staff's proposed guidelines for a long-term outdoor dining program was continued to a future meeting date of the Land Use, Sustainability and Resilience Committee due to scheduling conflicts. For these reasons, and given the approaching expiration of the Emergency Declaration, the item is being brought directly to the City Council for discussion. Staff has continued to engage and support businesses with the deployment of outdoor dining space and has engaged stakeholders regarding staff's development of a long-term policy, now referred to as the Sidewalk Café Program.

DISCUSSION:

Sidewalk Café Program Development and Summary

The COVID-19 pandemic posed a challenge to local restaurants, and the City's implementation of a Temporary Outdoor Flex Space Program provided a means for restaurants to continue operating during the period of restriction on indoor operations. With the Emergency Declaration in California anticipated to end on February 28, 2023, a new program is required to facilitate the continued usage of public rights of way and pedestrian plazas by restaurant owners for outdoor dining purposes. Outdoor dining adds vibrancy to streetscapes and pedestrian plazas by promoting safety, cleanliness, and social interaction within these public spaces thereby making them more walkable, livable, and attractive. Having a wealth of permitted outdoor dining options additionally builds community resilience in the case of a future epidemic/pandemic where indoor dining becomes a concern. It is in the City's best interest to provide a program to facilitate outdoor dining with minimal barriers to participation.

Because the consultant proposal to prepare an outdoor dining program substantially exceeded staff's approved budget for the effort, staff worked alongside stakeholders to develop an in-house program based largely on the existing Temporary Outdoor Flex Space Program. Staff conducted a survey of all permit holders to better understand businesses' likes and dislikes with the existing program and inquired as to whether they would like to continue operating an outdoor space. Respondents operating an outdoor dining space varied between permits operating in the right-of-way (primarily located in the Downtown) and permits operating on private property (primarily located outside the Downtown).

Staff directly engaged with stakeholders including the Riverside Downtown Partnership and sent inquiries and program information to the Greater Riverside Chambers of Commerce, the Greater Riverside Hispanic Chamber of Commerce, and the Riverside County Black Chamber of Commerce.

The final long-term program (Attachment 2) has been renamed the Sidewalk Café Program and is intended to accommodate restaurants wishing to operate outdoor dining areas along their restaurant's frontage within the public right-of-way or public pedestrian plazas/the Main Street Pedestrian Mall. The program generally mirrors the Temporary Outdoor Flex Space Program but has been updated to incorporate new program participation criteria to account for long-term operations, lessons learned during the operation of the Flex Space program, and feedback from stakeholders. The program includes two participant categories:

1. Category 1 (Small-scale Sidewalk Cafés): Sidewalk Cafés that deploy a single row of tables against the building's frontage and do not include a raised barrier are considered Category 1 participants. Such participants will be required to apply through the Sidewalk Café Program for a no-fee encroachment permit.
2. Category 2: Any other Sidewalk Café will be considered a Category 2 participant and will be required to apply through the Sidewalk Café Program for an encroachment permit (the encroachment permit fee is currently \$651.00). Category 2 applicants will also be required to participate in a City staff review process to ensure Program compliance and facilitate discussion of the Sidewalk Café configuration.

All encroachment permits issued for Sidewalk Cafés expire one year after issuance and must be renewed on an annual basis at no cost to the permit holder; revisions to the encroachment permit/configuration will require a new application. Encroachment permits issued for Sidewalk Cafés are non-transferrable and expire upon a change in ownership of the associated facility. Full program requirements are detailed in the Sidewalk Café Program guidelines (Attachment 1).



Figure 1: Sample materials. Image credit: Peerless Fence

Special requirements will apply for Sidewalk Café Program participants on the Main Street Pedestrian Mall given the Mall's use for special events, high pedestrian volumes, and usage as an emergency vehicle access way.

Extension of Temporary Outdoor Flex Space Program Permits

On June 15, 2021 the City Council established a 30-day extension for the Temporary Outdoor Flex Space Program beyond the expiration of the Emergency Declaration and an Entertainment Permit Grace Period.

Restaurants may wish to modify their existing outdoor dining configurations or take time to select materials for their permanent configuration, and businesses are still determining how best to transition out of the COVID-19 pandemic. Applying for all necessary local and State approvals to operate an outdoor dining area in the public right-of-way can potentially take longer than 30 days. For these reasons, California Senate Bill 314 and Assembly Bill 61 extended State-level approvals for Outdoor Dining for one year beyond the expiration of the Emergency Declaration. Staff wishes to provide the same consideration through Riverside's programs and suggest that restaurants with an active Temporary Outdoor Flex Space Program permit (for outdoor dining purposes only) at the end of the Emergency Declaration should have until April 28, 2023, to apply for a no-fee one-time extension which shall expire on February 28, 2024, one year after the expiration of the Emergency Declaration. This extension is available for both operations in the public right-of-way and on private property. Restaurants which receive a one-time extension shall secure and comply with the requirements of any necessary permits and/or approvals prior to the expiration of the one-time extension to continue operation of an outdoor dining area established under the Temporary Outdoor Flex Space Program.

The encroachment permit fees for Category 2 applications will help offset personnel costs to meet with the applicant, review the outdoor space design and layout, assess the outdoor material, coordinate with Fire Department to ensure emergency access is maintained, and work with the Survey Division to memorialize the encroachment area. Even though applicants will need to review the encroachment permit on an annual basis, the encroachment fee will not be reassessed unless the owner requires permit/reconfiguration changes and/or the property is transferred to new ownership.

STRATEGIC PLAN ALIGNMENT:

This program contributes to **Strategic Priority 3 - Economic Opportunity**, and **Goal 3.3 - Cultivate a business climate that welcomes innovation, entrepreneurship, and investment**, and **Goal 3.4 - Collaborate with key partners to implement policies and programs that promote local business growth and ensure equitable opportunities for all**.

This project aligns with each of the Cross-Cutting Threads as outlined below:

1. **Community Trust** – City staff engaged stakeholders in developing the updated policy, including all permittees through the temporary program.
2. **Equity** – The Sidewalk Café Program has a low barrier to entry that is accessible to as many participants as possible.
3. **Fiscal Responsibility** – City staff have opted to develop the program in house, saving costs associated with a contractor.
4. **Innovation** – City staff are seeking to advance innovations made during the COVID-19 pandemic into a long-term program.
5. **Sustainability & Resiliency** – The establishment of the Sidewalk Café program will make Riverside more resilient during a potential future public health crisis.

FISCAL IMPACT:

There is no fiscal impact associated with this report.

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availability of funds: Edward Enriquez, Interim Assistant City Manager/Chief Financial
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Attachments:

1. Resolution
2. Sidewalk Café Program Guidelines and Procedures
3. Temporary Outdoor Flex Space Program
4. Presentation