



Legislation Details (With Text)

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On agenda: 10/5/2021 **Final action:**
Title: Consideration of Reduction in Size of Temporary Encroachment Areas for Street Dining for COVID-19 Purposes, Effective November 1, 2021 (Community Development Director Tai).
DISCUSS AND PROVIDE DIRECTION

Sponsors:

Indexes:

Code sections:

Attachments: 1. DBPA Letter Requesting Reduction in Outdoor Dining Areas, 2. Map of Proposed Encroachment Area Reductions, 3. Sample Encroachment Permit Template

Date	Ver.	Action By	Action	Result
10/5/2021	1	City Council Regular Meeting	accept	Pass

TO:
Honorable Mayor and Members of the City Council

THROUGH:
Bruce Moe, City Manager

FROM:
Carrie Tai, AICP, Community Development Director
Erik Zandvliet, T.E., City Traffic Engineer

SUBJECT:
Consideration of Reduction in Size of Temporary Encroachment Areas for Street Dining for COVID-19 Purposes, Effective November 1, 2021 (Community Development Director Tai).
DISCUSS AND PROVIDE DIRECTION

RECOMMENDATION:

Staff recommends that the City Council discuss and provide direction on the recommendation from the Downtown Business and Professionals Association (DBPA) to reduce the size of the temporary encroachment areas for street dining for COVID-19 purposes, effective November 1, 2021.

FISCAL IMPLICATIONS:

The City is currently foregoing approximately \$56,161 monthly in parking meter fee revenue and \$7,526 monthly in parking citation fee revenue due to outdoor street encroachments for COVID-19 purposes. Revenue from parking meters is directed into the Parking Fund and Capital Improvement Plan Fund, which is used to improve and repair City parking facilities, as well as on-going maintenance expenses. On September 21, 2021, the City Council voted to approve a monthly \$1.00 per square foot fee for the use of temporary street encroachment areas in the public right-of-way (PROW) by private businesses. Beginning October 1, 2021, the City started collecting approximately \$15,374 in monthly revenue from this fee.

A reduction in the overall temporary encroachment areas would restore approximately 19 metered parking spaces, which equates to about \$15,018 monthly in parking meter revenue and approximately \$2,014 monthly in restored parking citation revenue.

BACKGROUND:

On March 13, 2020, the City declared a State of Emergency due to COVID-19. In late May 2020, Los Angeles County Department of Public Health (LACDPH) began gradually relaxing the closures, allowing for non-essential retail to fully open and restaurants to re-open for outdoor dining only, subject to COVID-19 operating protocols. On June 10, 2020, the City Manager issued Emergency Order No. 11, allowing the City to issue temporary encroachment permits for street dining and business use, including in the street/parking space portion of the PROW, referred to herein as the COVID-19 Outdoor Dining/Business Use Program ("Program").

On May 18, 2021, the City Council voted to extend the Program to September 7, 2021, for areas east of Ocean Drive, made effective by City Emergency Order No. 26.

On August 23, 2021, the DBPA sent a letter to the City Council (attached) recommending that the City require all restaurants to reduce their outdoor dining areas to a footprint no wider than their own street frontage by November 1, 2021, with the understanding that minor adjustments may be necessary for practical considerations.

On August 24, 2021, the City Council extended the Program to January 3, 2022, made effective through City Emergency Order No. 27.

On September 21, 2021, as the result of numerous public comments, the City Council directed staff to agendize a discussion on the DBPA's recommendation to reduce the size of temporary encroachment permits in the PROW for COVID-19 purposes.

DISCUSSION:

Under the Emergency Orders, the Program provided relief to local businesses during the pandemic due to County, State and Federal restrictions on business operations. The Program has expanded since the beginning of the pandemic to include not just street parking spaces, but adjacent PROW and even portions of travel lanes that have been shifted or narrowed to create more equitably sized encroachment areas. The City has approved numerous encroachment areas that overlap in front of adjacent businesses subject to the adjacent tenant's support and right of first refusal.

The City has issued encroachment permits and signed agreements for 27 businesses to operate street dining in 71 parking spaces and about 2,755 square feet of PROW areas. The overall PROW area occupied by the temporary encroachment areas including parking areas is about 15,374 square feet. All permits limit restaurants to 100% of their pre-COVID seating occupancy using combinations of indoor and outdoor seating areas. Each business obtained a temporary encroachment permit to construct their dining area in the PROW. Several raised dining platforms constructed on Manhattan Beach Boulevard also required building permits and building inspections.

The Program has evolved to accommodate the business community's desire to provide a proportionately equitable amount of outdoor seating to offset prior restrictions on indoor seating capacity. At this time, there are no longer indoor seating capacity restrictions, but LACDPH orders currently require the use of masks when indoors except when eating/drinking, and strongly

encourage restaurants to prioritize indoor seating for vaccinated customers. Several restaurant owners have indicated their continued desire for outdoor seating. Conversely, the City has also received feedback from Downtown residents and some business owners that these outdoor activities negatively affect quality of life (noise, parking, aesthetics, sidewalk blockages, vermin, infrastructure, public safety response, etc.).

Nothing in the current Program prohibits individual businesses from reducing or removing their encroachment areas prior to January 3, 2022. It should be noted that four restaurants have temporary street encroachment areas in the North End business district that are subject to the same rules that are or would be imposed in Downtown. For fairness and administrative purpose, changes should be applied consistently to all businesses within the City.

The proposed reduction in the allowed width of encroachment areas would disrupt the current proportionality of dining areas and change the basis upon which the street areas are allocated. Due to the consistent depth of encroachment areas within the same block, narrow and deep restaurants would generally be restricted to smaller outdoor dining footprints, and wider and shallow restaurants would be afforded a larger footprint. In addition, the current depth of encroachment areas is not consistent throughout the City, varying from eight feet in parallel parking areas up to 17.5 feet in angled parking areas where the travel lanes have been modified. In some cases, the reconstruction of the dining platforms would generate new permit fees and possibly require new building plans and permits.

According to Jill Lamkin, Executive Director of the DBPA, the reduced street dining area proposal is supported by at least 16 restaurants (three of which do not have street dining areas), and is opposed by at least five restaurants in the Downtown area. The letter states that that Downtown retailers have sacrificed their store visibility due to the encroachment areas and need additional street parking in time for the holiday season. The proposal criteria would require the reduction in the width of about 11 street dining areas in Downtown. (See attached map.) One restaurant in the North End Business District area would also be affected by the reduced frontage criteria if applied citywide.

The existing Program is scheduled to end on January 3, 2022. Prior to this date, two major special events will take place that will have an impact on Downtown businesses: the Pier Lighting and Holiday Open House on November 17, and Holiday Fireworks on December 12. Both events will require additional staff and resources due to the temporary encroachment areas. In addition, the City's Special Events Committee has determined that the temporary encroachment areas on Manhattan Beach Boulevard west of Manhattan Avenue and on Ocean Drive must be removed in preparation for the Holiday Fireworks event to ensure adequate public safety of an outdoor event over 10,000 persons. Provisions in the existing PROW encroachment agreement and permits authorize the City to require such removal within three days. (See attached sample permit template.)

ALTERNATIVES:

In considering whether to require the reduction in temporary street encroachment areas, staff requests that the City Council consider the following alternatives:

ALTERNATIVE #1:

Continue the current Program as is until January 3, 2022.

PROS:

The Program would remain in place, giving restaurants the flexibility to have outdoor seating

opportunities. Restaurants can individually or collectively volunteer to reduce the size of their temporary encroachment areas.

CONS:

Restaurants would continue to use temporary encroachment areas in front of retailers, which would not restore parking spaces for the holiday season or address concerns presented by the retailers.

ALTERNATIVE #2:

Transition the Program to require a frontage-based outdoor business use/dining areas.

PROS:

Approximately 19 Downtown public parking spaces would be restored for parking during the holiday season. The City would recover about \$17,032 monthly in unrealized parking meter and citation fees for these spaces. Overall impacts of outdoor dining such as noise and sidewalk congestion would be reduced proportionately.

CONS:

Limiting encroachment areas to the frontage width of the restaurant will affect restaurants with narrow frontages more significantly than those with wider frontages. Some restaurants would be required to pay additional PROW and building permit fees to reconstruct or relocate encroachment areas. It may take considerable time to approve, remove and reconstruct the dining areas, which will have an adverse impact to the general public, traffic, and staff resources.

PUBLIC OUTREACH:

City staff conducts regular meetings on COVID-19 business solutions, which include attendees from the Chamber of Commerce, Downtown Business and Professional Association, North Manhattan Beach Business Improvement District, and the Downtown Residents Association. This item was discussed at the September 13, 2021 meeting of this group. This meeting has also been noticed in conformance with public meeting requirements.

ENVIRONMENTAL REVIEW:

This report covers existing processes permitted by the Municipal Code. The City has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that there is no possibility that the activity may have a significant effect on the environment; therefore, pursuant to Section 15061(b)(3) of the State CEQA Guidelines the activity is not subject to CEQA; thus no environmental review is necessary.

LEGAL REVIEW:

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

ATTACHMENTS:

1. DBPA Letter Requesting Reduction in Outdoor Dining Areas
2. Map of Proposed Encroachment Area Reductions
3. Sample Encroachment Permit Template