

**TO THE COUNCIL OF THE
CITY OF LOS ANGELES**

Your

PUBLIC WORKS COMMITTEE

reports as follows:

PUBLIC WORKS COMMITTEE REPORT relative to regulating restaurants wishing to engage in dining activities within the dedicated public right-of-way.

Recommendations for Council action:

1. APPROVE the Penalty Fee Proposal as detailed in Item No. 3 of the January 13, 2010 Bureau of Engineering (BOE) report and attached to the Council file for charging penalty fees to repeat offenders.
2. DIRECT the BOE to conduct an annual review of the implemented Penalty Fee Proposal, as detailed above in Recommendation No. 1, and submit said annual review to Council.
3. DIRECT the BOE to submit all parking issues arising out of dining activities, as detailed in the January 13, 2010 report and attached to the Council file, to the Department of City Planning for further review and analysis.

Fiscal Impact Statement: None submitted by the BOE. Neither the City Administrative Officer nor the Chief Legislative Analyst has completed a financial analysis of this report.

Community Impact Statement Submitted: None submitted

SUMMARY

On August 12, 2009, this matter was re-referred to the Public Works Committee by Council action. Subsequently, on October 7, 2009, your Committee considered an August 6, 2009 Communication from the Public Works Committee and a November 20, 2008 City Attorney report and Ordinance relative to adding Subsection (a) to Section 62.118.2 of the LAMC requiring any restaurant wishing to engage in dining activities within the dedicated public right-of-way to obtain a revocable permit and otherwise regulating said dining activities. This Ordinance is in response to Council's June 16, 2006 action requesting the City Attorney to prepare and present an Ordinance in regard to dining activities in the public right-of-way (Council File No. 05-2034). After consideration and having provided an opportunity for public comment, the Committee moved to continue this matter pending a further report-back from the BOE.

Subsequently, this matter was heard and continued on February 17, 2010 and March 3, 2010. On April 7, 2010, your Committee considered the above Communication from the Public Works Committee and Ordinance along with two additional January 13, 2010 BOE reports. According to the BOE, it was tasked with responding to comments made by the Committee members during the October 7, 2009 meeting. Specifically, the Committee asked the BOE to report back on the following items:

- a. Fees that other cities charge.
- b. Complaint based fee proposal for permittees found to be out of compliance with permit conditions.
- c. Sliding Scale fee proposal based on the size of the dining area, in-lieu of one standard fee that is charged to all.
- d. What the City of LA can do to require off-site parking as a part of the revocable permit.
- e. Requirements for off-site parking by other cities (since parking requirements are under the jurisdiction of the Departments of City Planning and Building and Safety, it is recommended that the matter be referred to the City Planning Department for further review).

The BOE then gave a presentation in regard to the above items and this presentation is detailed in the two January 13, 2010 BOE reports and is attached to the Council file.

After further consideration and having provided an opportunity for public comment, the Committee moved to recommend approval of Recommendation No. 3 for a Penalty Fee, as detailed on the January 13, 2010 BOE report. Specifically, if a Bureau of Street Services (BSS) investigator confirms that a permittee's sidewalk dining area is not in compliance with the revocable permit conditions, a Penalty Fee and Inspection fee shall be charged. These fees apply to occurrences that happen within a one calendar year period of time. Additionally, revocation of the permit may be imposed depending on the type and magnitude of the non compliance occurrence. In case of such an action only the inspection fee will be assessed against the restaurant; when a Revocable permit is revoked a new Revocable permit will not be issued for a minimum period of one year.

The BSS estimates that \$140.00 would be required to recover the cost of an investigator making one and/or maybe two visits to the site. Past inspection records indicate that approximately 60 complaints a year could be expected to be received for investigations of restaurants with sidewalk dining. At that rate, the annual cost estimated for performing this function is approximately \$8,400.00.

Additionally, the Committee recommended directing the BOE to conduct an annual review of the implemented Penalty Fee Proposal and to submit said annual review to Council. Finally, the Committee recommended directing the BOE to submit all parking issues arising out of dining activities, as detailed in its January 13, 2010 report, to the Department of City Planning for further review and analysis.

This matter is now submitted to Council for its consideration.

Respectfully submitted,
PUBLIC WORKS COMMITTEE

<u>MEMBER</u>	<u>VOTE</u>
HUIZAR:	YES
ALARCÓN:	YES
SMITH:	ABSENT

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- Not Official Until Council Acts -