

CITY OF LOS ANGELES

CALIFORNIA

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November 9, 2020

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The Honorable Eric Garcetti
Mayor, City of Los Angeles
Room 303, City Hall

City Council
c/o City Clerk
Room 395, City Hall

TRANSMITTAL: REPORT BACK ON CHANGES TO STREAMLINE CITY PROCESSES AFFECTING THE FOOD AND BEVERAGE INDUSTRY

RECOMMENDATIONS

The General Manager of Economic and Workforce Development Department (EWDD), respectfully requests that the City Council, subject to the approval of the Mayor as required, request and instruct the departments as indicated below to report back to Council and Mayor within twenty-one days with further recommendations on how the City can further support the Food and Beverage Industry in Los Angeles, including identifying implementation actions to respond to the impact of COVID 19.

1. INSTRUCT the Bureau of Engineering (BOE) to evaluate and report on the following possible changes in operations generated from the Food and Beverage Working Group discussions:
 - a. Coordinate with other City Departments, as appropriate, and to report back to Mayor and Council with options available to streamline the process of permitting sidewalk dining, including the potential for the City to adopt the streamlined Al Fresco permit process model, including implementing a fee for program cost recovery.
 - b. Work with the City Attorney's Office to assess whether the current liability waiver and insurance requirements address liability concerns.
2. INSTRUCT the Los Angeles Department of Transportation (LADOT) to evaluate and report on the fiscal impact of extending the Food Pick-up Zone Program indefinitely;

3. REQUEST that the Los Angeles Police Commission evaluate and consider accepting and processing live music and/or dancing permit applications concurrently with the building permit process;
4. INSTRUCT the Los Angeles Department of Building and Safety (LADBS) to evaluate and report on the following possible changes in operations generated from the Food and Beverage Working Group discussions:
 - a. Consider requiring employee email signatures to include a statement of the Department's current response policy (up to 2 business days), regular days off, and supervisor contact information and to list availability of virtual meetings for plan check until normal in-person plan check procedures are resumed.
 - b. Consider implementing a procedure at the plan check submittal phase for staff to advise applicants when plans will need to be reviewed by the Fire Department.
 - c. Consider implementing a procedure at the plan check submittal phase for staff to alert applicants of their eligibility to apply to the Restaurant and Small Business Express Program.
 - d. Consider the effectiveness and constraints of potential implementation of "Self-Certification" of simple projects, including tenant improvements and small new construction projects, similar to current standards utilized in Chicago, New York, and, locally, Bellflower.
5. INSTRUCT the Department of City Planning (DCP) to evaluate and report on the following possible changes in operations generated from the Food and Beverage Working Group discussions:
 - a. Consider continuing to offer applicants the drop-off option for entitlement case filing at the Development Services Center, post COVID-19 emergency operations process.
 - b. Consider the continuation of providing building permit clearance when the entitlement case (generally Conditional Use Beverage (CUB)) has no bearing or impact on physical construction.
 - c. Consider a revision to the Los Angeles Municipal Code (LAMC) § 12.03 of the zoning code to eliminate the limitation on outside dining area floor area and location.
 - d. Consider thresholds to allow minor redesigns and deviations for valid CUB and CUX entitlements without requiring a discretionary Plan Approval (PA) process, including minor deviations related to "mode and character" that would generally be less impactful than the existing operation.
 - e. Consider the effectiveness and constraints of the suspension of minimum parking requirements for Food Service Establishments (FSE) during a local emergency as referenced in Article 6 of the LAMC, in line with current code amendment efforts.
 - f. Consider suspending both the enforcement and implementation of any parking-related conditions in CUB entitlements (i.e. off-site leases, valet service, etc).

- g. Consider continuing to allow sales of alcoholic beverages for off-site consumption, as long as the State continues to allow sales for offsite consumption.
 - h. Consider the necessity and/or benefits of extending all expiring conditional use permits for a period of up to 36 months after the expiration of the Coronavirus COVID-19 Emergency Declaration, unless there is an active revocation proceeding relative to the operation.
 - i. Consider the effectiveness and constraints of formally repealing LAMC § 12.22 A.23(b)(5) requiring owners of commercial properties next to residentially zoned properties to record covenants limiting commercial operations and consider alternative compliance measures.
6. INSTRUCT the Los Angeles Fire Department (LAFD) to evaluate and report on the following possible changes in operations generated from the Food and Beverage Working Group discussions:
 - a. Consider the defined parameters necessary to allow for small construction and tenant improvement projects to undergo plan checks by video conference appointment.
 - b. Consider immediately notifying applicants by email when plan corrections are available.
 - c. Consider updating the inspection services website to provide customers a description of "pre-walk" inspections and notify of their availability.
 - d. Consider including "pre-walk" inspection descriptions and availability within the standard reply customers are emailed when receipts for plan check services paid are completed.
7. REQUEST the Department of Water and Power (DWP) to evaluate and report on the following possible changes in operations generated from the Food and Beverage Working Group discussions:
 - a. Consider creating a case management system to oversee applications for service upgrades from application through delivery.
 - b. Consider conducting a study on whether service upgrades can run concurrently with building permit applications, without waiting for building permits to be issued, and a provision allowing applicants to be liable for upgrades if projects are discontinued.
8. INSTRUCT LA Sanitation & Environment (LASAN) to evaluate and report on implementing the COVID-19 Industrial Waste Fee Relief Program (which would suspend the delinquency fees for the 1st and 2nd billing quarters and provides options for installment payments) to assist Industrial Users experiencing financial hardship due to mandatory closures and loss of revenues;
9. INSTRUCT LADBS, DCP, LAFD, BOE, LADOT, and EWDD to report to the City Council and Mayor's Office on an annual basis on steps each department will take to improve the policies and practices under their jurisdiction to assist small businesses;

10. REQUEST City Council, with the concurrence of the Mayor, to RESOLVE to include in the City of Los Angeles 2021-2022 State Legislative Program SPONSORSHIP and SUPPORT of legislation or administrative action by the County of Los Angeles which would:
 - a. Update codes regarding all-gender restrooms;
 - b. Create a simple process for restaurants to convert dining area to dry market retail;
 - c. Remove requirement for multiple restrooms in establishments serving alcoholic beverages;
 - d. Remove LA County Plan Check requirement to submit three sets of hard-copy plans for initial review;
 - e. Offer over-the-counter plan check for qualifying small restaurants;
 - f. Allow small locations to locate grease traps under 3-compartment sinks; and
 - g. Modify requirements for under-counter dishwashers as further detailed in this report to assist small businesses in Los Angeles.

11. REQUEST City Council, with the concurrence of the Mayor, to RESOLVE to include in the City of Los Angeles 2021-2022 State Legislative Program SPONSORSHIP and SUPPORT of legislation which would:
 - a. Allow food preparation areas to be open to the outside if they can be fully enclosed and secured after hours;
 - b. Remove the requirement to add a hood system over electrical (no-flame) countertop equipment;
 - c. Classify coffee service equipment as “low risk” as further detailed in this report to assist small businesses in Los Angeles; and
 - d. Exempt outdoor dining areas, whether covered or uncovered, from occupant load calculation as they relate to fire sprinklers.

FISCAL IMPACT STATEMENT

The recommendations presented in this report do not impact the General Fund.

INTRODUCTION

The novel coronavirus (COVID-19) global health emergency is unprecedented in modern history, and has affected every community and business industry. To protect the community from the spread of COVID-19, residents and businesses in the City of Los Angeles were advised in March 2020 to shelter-in-place and stay at home. All non-essential businesses were directed to temporarily cease in-person operations. Essential businesses, including Food Service Establishments (FSEs), were instructed to follow safety protocols that prohibited dine-in customers while permitting take-out, delivery, and drive-thru operations.

To mitigate the devastating impact that the COVID-19 pandemic has had on small businesses in Los Angeles, the City Council on May 6, 2020, adopted the Motion (Blumenfield-Price) dated April 22, 2020, and the Amending Motion (Blumenfield-Price)

dated May 6, 2020, which instructed EWDD to develop recommendations for low-cost or no-cost changes to streamline City processes for various departmental approvals that the City requires for Food and Beverage businesses to be allowed to operate or modify their operations, and to consult with Food and Beverage Industry representatives, the Small Business Commission, and appropriate City departments in developing those recommendations.

In response to the City Council's instructions, EWDD convened a working group consisting of industry representatives, members of the Mayor's Office, Council Office staff, Small Business Commission, Business Improvement Districts (BIDs), pertinent Los Angeles County agencies, and various City Departments (Working Group). The industry representatives included the California Restaurant Association, restaurant and bar operators, general contractors, expeditors, architects, lawyers, and advocates. The collaborating County agencies included the Department of Public Health (Public Health) and the L.A. County Small Business Sector Task Force. The participating City departments included the Department of Building and Safety (LADBS), the Department of City Planning (DCP), the Department of Transportation (LADOT), the Fire Department (LAFD), the Department of Water and Power (LADWP), and the Bureau of Engineering (BOE), Bureau of Street Services, Los Angeles Sanitation, and EWDD.

The Working Group developed and discussed over 70 changes to operations, policies, and practices, as detailed in Attachment 1. Ultimately, however, the Working Group settled on the recommendations detailed in this transmittal, with the others dropped from consideration due to public health and safety concerns, impracticality of implementation, and/or violations of current City, County, or State codes.

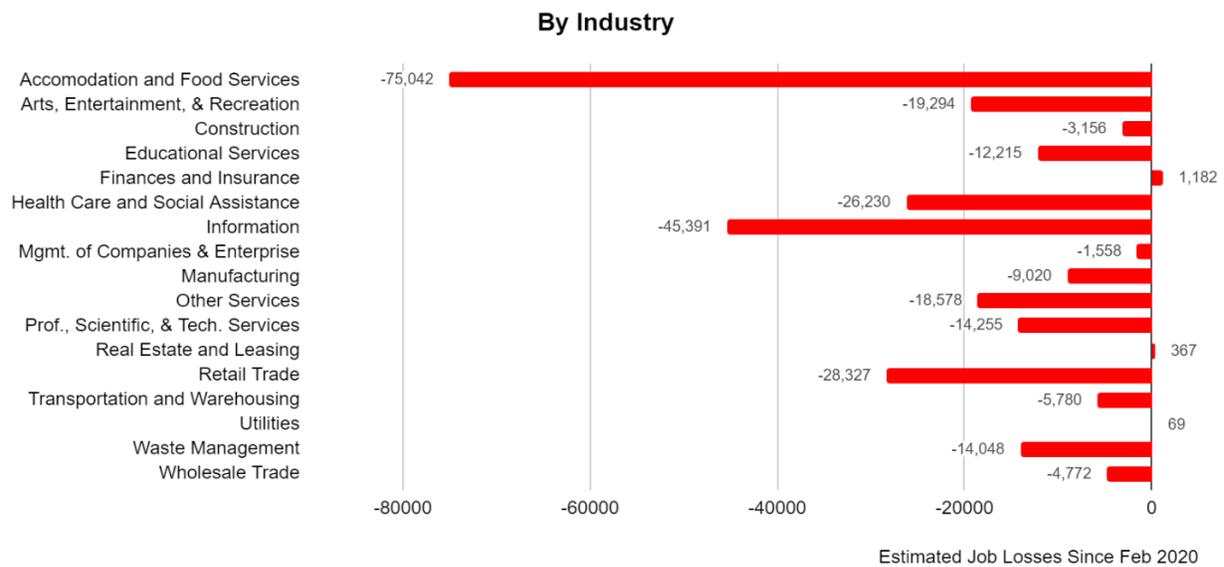
It is important to note that the recommendations within this report were developed using the technical expertise of City staff engaged in administering the processes and requirements discussed herein. City departments have refined this report to allow flexibility to balance the needs of FSEs and reflect considerations of City Charter and LAMC requirements. The recommendations included in this transmittal are based on, and as a result of, the discussion and assessment of the Working Group.

BACKGROUND

Food service and retail beverage industries are seeing some of the most significant economic impacts from COVID-19. The threat of the pandemic required limiting the congregation of large groups of people, necessitated the implementation of a ban on dine-in eating, and mandated that food service locations operate solely for takeout, delivery, or drive-thru. This unprecedented action has had a devastating impact on small businesses and has forced the permanent closures of some restaurants and bars in the City. The National Restaurant Association estimates that the industry nationwide will lose five to seven million employees and \$225 billion in the next three years. Without intervention to help the industry, many more restaurants will not survive this pandemic.

As demonstrated in Table 1 on the next page, the City Controller's Office in July 2020 released some very sobering estimates of job losses by major industry, illustrating that the food service industry is being disproportionately affected by the current health crisis.

TABLE 1 - LA City Controller Estimated Jobs Lost Since February 2020



No segment of the battered food service industry has been immune to the financial devastation that has resulted in thousands of restaurants nationwide closing their doors permanently. According to an article in USA Today dated September 12, 2020, once-thriving chains California Pizza Kitchen and Chuck E. Cheese have filed for bankruptcy. For independent restaurants, the situation may be worse.

The phrase “time is money” resonates very true for Food Service Establishments (FSEs). As illustrated in Table 2 below, it costs an estimated \$1,000 to \$3,000 per day for a typical midrange restaurant to go through the City’s current permitting processes, often making it unfeasible and cost-prohibitive for smaller operations to even open their doors.

TABLE 2- Operating Expenses of Typical Midrange Restaurant

Illustrative Operating Expenses (Excluding fees, taxes and capital costs)					
Prototypical Midrange Restaurant @ 3,000 SF and 80 FTE					
Planning & Permitting		Construction		60-days Pre-Open	
Payroll	\$ -	Payroll	\$ 8,000	Payroll	\$ 50,000
Consultants	35,000	Consultants	12,000	Consultants	12,000
Rent & Utilities	-	Rent & Utilities	10,000	Rent & Utilities	10,000
Parking Lease/Valet	-	Parking Lease/Valet	2,500	Parking Lease/Valet	2,500
Marketing	-	Marketing	750	Marketing	2,500
Total	\$ 35,000	Total	\$ 33,250	Total	\$ 77,000
Illustrative Cost per Day	\$ 1,151	Illustrative Cost per Day	\$ 1,093	Illustrative Cost per Day	\$ 2,532
					132% increase
Time Savings in Dollars		Time Savings in Dollars		Time Savings in Dollars	
30 Days	\$ 34,521	30 Days	\$ 32,795	30 Days	\$ 75,945
60 Days	\$ 69,041	60 Days	\$ 65,589	60 Days	\$ 151,890
90 Days	\$ 103,562	90 Days	\$ 98,384	90 Days	\$ 227,836

In an effort to circumvent restaurant closures and job losses, the City has taken temporary steps to help FSEs more efficiently comply with COVID-19 related restrictions and requirements. These temporary programs include LADOT’s curbside pick-up program

that supplies parking signs free-of-charge and BOE's AI Fresco program that streamlined the permitting process for outdoor dining. Nonetheless, more help is needed to help FSEs remain in operation.

WORKING GROUP

Working Group Input

The Working Group set objectives and received guidance from both sides of the permitting processes (applicant and permit grantor). Many of the recommendations presented in this report were informed by the improvement proposals of departmental staff responsible for administering these processes.

All members of the Working Group agreed that permitting processes are complicated and that the feedback from the public provided an opportunity for improvement.

Over the course of eight weeks, the Working Group met to discuss strategies to update City and County processes, policies, and codes, including:

- Eliminating unnecessary requirements
- Updating regulations, codes, and interpretations for current and future needs
- Improving alignment for multiple approval processes
- Improving inter-agency coordination
- Improving processes (plan-check, inspection, conditional use, etc.)

Public Input

The Working Group determined that to assess the City's permitting process, it was critical to obtain input from stakeholders. Consequently, EWDD developed a survey to solicit public input (Attachment 2). The Food and Beverage Industry Process Survey was distributed to BusinessSource Center clients, Business Improvement Districts (BIDs), California Restaurant Association members, and various operators connected to the food and beverage industry. Survey responses revealed concerns that big chains and deeply funded independent restaurants will be the only operators that can feasibly go into and stay in business in the City. Citing several City regulatory processes, survey respondents provided the Working Group direction on the processes, rules, and policies that caused challenges and that may need to be updated or reconsidered.

Survey respondents identified concerns such as the duration of the permit approval process, the difficulty of navigating the City's bureaucracy, and certain regulations and requirements as challenging to their ability to operate in Los Angeles. The lack of transparency, lack of intra-agency coordination, and the need to improve customer experience were also frequently cited as issues.

RECOMMENDATIONS and DISCUSSION

Department of Public Works, Bureau of Engineering (BOE) Recommendation

1a. Coordinate with other City Departments, as appropriate, and to report back to

Mayor and Council with options available to streamline the process of permitting sidewalk dining, including the potential for the City to adopt the streamlined Al Fresco permit process model including implementing a fee for program cost recovery.

- 1b. Work with the City Attorney's Office to assess whether the current liability waiver and insurance requirements address liability concerns and report back to Mayor and Council.

According to BOE, the regular outdoor dining permitting process requires a review of an application, an inspection of the sidewalk, and issuance of a letter of Revocable Permit Requirements (RPR letter). After BOE's issuance of the RPR letter, the average time to obtain the actual outside dining permit can vary but has taken up to six months. The process also requires evidence of insurance and a waiver holding the City harmless from lawsuits resulting from the outdoor operation.

For the period between July 1, 2018, and September 10, 2020, the BOE has received a total of 120 applications for sidewalk dining. Out of the 120 applications, 26 (22%) have been deemed incomplete due to non-payment or missing required documents, 20 (17%) have been canceled by applicants due to site infeasibility or other unknown reasons and 74 (62%) have been processed and the RPR letter issued within 2 to 3 weeks. Of the 74 processed applications, The BOE has issued 13 permits (11%), denied 1 permit (1%), and is awaiting action from applicants on the remaining 60 applications (50%).

The Working Group recommends that BOE be requested to coordinate with other City Departments, as appropriate, and to report back to Mayor and Council with options available to streamline the process of permitting sidewalk dining, including the potential for the City to adopt the streamlined Al Fresco permit process model, which omits the sidewalk inspection requirement, as the City's standard outdoor dining permit process going forward. Modifications to the Al Fresco program, currently free to businesses, should be considered, including a fee to recover the costs associated with the program. The Working Group further recommends for BOE to work with the City Attorney's Office to assess whether liability concerns are addressed by the waivers and insurance requirements in place and report back to Mayor and Council.

Los Angeles Department of Transportation (LADOT) Recommendation

2. Evaluate the fiscal impact of extending the Food Pick-up Zone Program indefinitely.

LADOT has been proactive in providing options to help struggling FSEs adapt to rapidly changing current conditions. One such effort is the Food Pick-up Zone program, which provides signage to FSEs who wish to designate 10-minute parking spaces in front of their establishments for food pickup. The program has been extremely popular, and as of July 10, 2020, over 534 requests had been approved for the installation of over 700 signs. As reliance on food delivery grows, the Working Group recommends that LADOT evaluate and report to Mayor and Council on extending this program indefinitely.

Los Angeles Police Commission (Police Commission) Recommendation

3. Evaluate and consider accepting and processing live music and/or dancing permit applications concurrently with the building permit process.

Police Commission permits are required for FSEs that wish to have live music and/or dancing. The current Police Commission permit review process begins after the FSE has obtained a Certificate of Occupancy, adding unnecessary months to the pre-opening timeline. Based on the Working Group's assessment of this existing process, the Working Group recommends that the Police Commission evaluate whether FSEs who wish to have live music and/or dancing be allowed to apply for Police Commission permits at the same time they apply for a building permit.

Los Angeles Department of Building and Safety (LADBS) Recommendation

- 4a. Evaluate and consider requiring employee email signatures to include a statement of the Department's current response policy (up to 2 business days), regular days off, and supervisor contact information and to list availability of virtual meetings for plan check until normal in-person plan check procedures are resumed.

It is currently LADBS policy for Development Services staff to respond to applicant calls and emails within two business days of receipt. LADBS enforces this standard on a complaint-driven basis only. Many applicants are unaware of the reply policy and what options are available to get the responses they need. The Working Group recommends that LADBS consider and report to Mayor and Council regarding Development Staff adding a statement of the Department's two business day reply policy to their email signatures, along with supervisor contact information, and that the email signatures include a list of regular days off so applicants can plan to engage backup staff if important projects are proceeding during staff time off.

- 4b. Consider implementing a procedure at plan check submittal phase for staff to advise applicants when plans will need to be reviewed by the Fire Department and,
- 4c. Consider implementing a procedure at the plan check submittal phase for staff to alert applicants of their eligibility to apply to the Restaurant and Small Business Express Program.

Certain tenant improvement and new construction projects require a Fire Department plan check before issuance of a Building Permit. The building plan check process, including applicant corrections, can often take 3 to 6 months. The LAFD plan check process can add up to 3 more months after that, at significant financial cost to the applicant.

Today, sophisticated applicants and those with experienced consulting teams know that they have the option of starting the LAFD plan check process simultaneously with the LADBS process, and many do so. But first-time applicants or those with less sophisticated teams are often surprised to learn upon LADBS approval of their plans that they have another 2 to 3 months wait for permits because of LAFD review. A method for plan checkers to perform a quick occupant calculation and flag buildings with 99 or greater occupancy for simultaneous submission of a separate set of plans to Fire Plan Check will

improve and shorten the overall process. Especially for first-time applicants and those with less experienced teams, a referral to LAFD at intake could result in major savings that could mean the difference between sustainability and failure of their business. Additionally, when reviewing plans at the initial plan check, plan checkers should route them to the LADBS Restaurant and Small Business Express Program (RSBEP) which can help to make the permitting and inspection process more efficient. The Working Group recommends that LADBS evaluate and report to Mayor and Council on a procedure at the plan check submittal phase to advise applicants when plans will need to be reviewed by LAFD, and to alert applicants of their eligibility to apply to the Restaurant and Small Business Express Program.

- 4d. Consider the effectiveness and constraints of the potential implementation of "Self-Certification" of simple projects, including tenant improvements and small new construction projects, similar to current standards utilized in Chicago, New York, and, locally, Bellflower.

Many cities, including Chicago, New York, and, locally, Bellflower, now allow simple projects, including tenant improvements and small new construction projects, to proceed under the "certification" of a licensed architect who takes full responsibility for code compliance. This arrangement eliminates the need for plan check for a significant number of projects, saving time for applicants, and allowing public agencies to focus their resources where most needed. Self-certified construction projects must still comply with all zoning and building codes, and they are subject to the same inspection regime as plan-check projects. Due to the complex Fire and Life Safety requirements associated with restaurant and commercial projects, as well as the large number of agencies involved in approving restaurants, the LADBS response to the potential for implementation of "Self-Certification" is that it is not a feasible option for tenant improvements or new construction. The Working Group recommends that LADBS evaluate and report to Mayor and Council of the effectiveness and constraints of a "self-certification" program for restaurant and bars.

Department of City Planning (DCP) Recommendation

- 5a. Consider continuing to offer applicants the drop-off option for entitlement case filing at the Development Services Center, post COVID-19 emergency operations process.

Before the COVID-19 emergency, Conditional Use Permit (CUP) applicants had to submit filings in person and by appointment. This process often added several weeks to the existing CUP review timeline. As part of DCP's response to COVID-19, applicants can now drop off submittal packages on a walk-in basis, increasing convenience and thereby improving the customer experience. The Working Group recommends that DCP consider and report to Mayor and council on acting to make this process improvement permanent.

- 5b. Consider the continuation of providing building permit clearance when the entitlement case (generally Conditional Use Beverage (CUB)) has no bearing or impact on physical construction.

When a Food Service Establishment (FSE) applies for a Building Permit and there is an open alcohol-related planning case (generally, a Conditional Use Beverage (CUB)), the LADBS requires a clearance from DCP before it will issue a building permit. DCP practice is to withhold the clearance until the Planning case is approved – often 10-12 months later. In some instances, the current practice makes sense, such as when the building permit requires a variance from height, setbacks, or use standards. But when the proposed construction and use could otherwise proceed by-right (i.e., the only entitlement in the open case is for alcohol service), DCP's current practice adds significant time, cost, and risk to the project. Small businesses could receive some cost savings with this change.

The Working Group thus recommends that DCP consider and report to Mayor and Council on making it standard practice to clear stand-alone alcohol-related cases on building permit applications when the planning case has no bearing or impact on the physical construction. DCP may ask applicants to acknowledge in writing that they are proceeding with building activities at their own risk should the CUB not be approved. Given the extremely high cost of the current process, many applicants will choose to proceed at risk and could not afford to proceed any other way. Some estimate that providing the building permit clearance for cases wherein the only entitlement is CUB will potentially save 10 to 12 months and an estimated \$345,210 to \$911,340 in operating expenses.

- 5c. Consider a revision to the Los Angeles Municipal Code (LAMC) Section 12.03 of the zoning code to eliminate the limitation on outside dining area floor area and location.

Conflicting guidance on the allowable size and location of Outdoor Eating Areas on private property is another issue the Working Group researched and analyzed. The Zoning Code (LAMC 12.03) limits Outdoor Eating Areas to 50% of the inside eating area, and only allows them on the ground floor. However, Zoning Administrator Interpretation No. 1808 provides for outdoor eating without square foot limitations, in certain zones. Outdoor Area Eating applicants are often confused about when limitations do and do not apply, and limitations on the size of Outdoor Eating Areas are no longer consistent with broader concerns about public health and support for small businesses. As such, DCP should consider and report to Mayor and Council on revising the Zoning Code definition of "Outdoor Eating Area" to eliminate the limitation on square footage as well as the requirement that it be located on the ground floor is recommended.

- 5d. Consider thresholds to allow minor redesigns and deviations for valid CUB and CUX entitlements without requiring a discretionary Plan Approval (PA) process, including minor deviations related to "mode and character" that would generally be less impactful than the existing operation.

Another area of concern to the Working Group is that currently, when an FSE already operating under an approved CUP applies for a building permit, even for certain minor remodels/reconfigurations, that work unpredictably triggers a formal City Planning "Plan Approval" process. A Plan Approval is a Zoning Code required discretionary process that requires Zoning Administrator review and hearing which may require the hiring of land use consultants to assist with the process. The review process can take 90-120 days

and add a considerable fee to even a minor project.

Current codes and policies are such that many applicants cannot predict whether their projects will be subject to this process. While Plan Approval is appropriate for significant projects, it is a major barrier to minor redesigns and adjustments that many struggling FSEs will need to survive the crisis. As such, DCP should consider and report to Mayor and Council on potentially eliminating the often-costly Plan Approval process for minor redesigns and adjustments is recommended.

To address significant delays in the Plan Approval process, the Working Group recommends that DCP consider and report to Mayor and Council on defining appropriately broad parameters for "by-right" modifications to "mode and character," floor area, and other aspects of FSEs, and whether applicants proceeding under the "by-right" process be subject to standard conditions that might restrict hours and/or sound levels audible outside the establishment. Businesses would remain subject to other regulatory requirements such as those governing seating in the public right-of-way or those associated with alcoholic beverage sales.

- 5e. Consider the effectiveness and constraints of the suspension of minimum parking requirements for Food Service Establishments (FSE) during a local emergency as referenced in Article 6 of the LAMC in line with current code amendment efforts.
- 5f. Consider suspending both the enforcement and implementation of any parking-related conditions in CUB entitlements (i.e. off-site leases, valet service, etc).

The LADBS estimates that as much as 30% of Development Services staff time is spent navigating issues surrounding compliance with Zoning Code parking requirements. Much of this work results simply in the granting of existing conditions at great cost to the applicant and the City. The cost to the application forms a major barrier to the reuse of existing commercial spaces and causes many businesses to start operations at an otherwise avoidable economic deficit. More and more cities have eliminated minimum parking requirements from an increasing array of projects with significant benefits to economic development, equity, and environmental sustainability. The City of L.A. has already eliminated minimum parking requirements from adaptive reuse projects involving housing in certain areas to stimulate economic development.

Adopted Council Motion 20-0380-S1 instructs DCP to present an ordinance suspending any condition requiring a property owner or business to provide off-site or valet parking for a period of 6 months after the expiration of the COVID-19 Emergency Declaration. This code amendment effort is now underway. Many restaurants and bars operate out of spaces built long before the Zoning Code began requiring extensive onsite parking for FSEs. These storefront locations often open directly to the sidewalk and contribute to neighborhood walkability and safety. New and expanding FSEs, along with those applying for alcoholic beverage service, bear the significant cost of the mismatch between Zoning Code and our built environment. These businesses must seek relief by demonstrating vested rights as a "legal/non-conforming use" and/or by pursuing Variances. This can be costly, risky, and time-consuming, both for the applicant and for the City.

The Working Group recommends that DCP consider and report to Mayor and Council on suspending minimum parking requirements for FSEs, and suspending both the enforcement and implementation of any parking-related conditions in CUB entitlements (i.e. off-site leases, valet service, etc).

- 5g. Consider continuing to allow sales of alcoholic beverages for off-site consumption, as long as the State continues to allow sales for offsite consumption.

Before the COVID-19 emergency, alcoholic beverage sales could often comprise 30-40% of a restaurant's revenues. Mandates to alter operations (limited or no onsite dining, emphasis on to-go service, for example) have dealt a devastating blow to FSEs. Allowing the sale of alcoholic beverages for off-site consumption has helped some restaurants stay afloat through the crisis. Even after the COVID-19 emergency is over, restaurant operations will likely remain reduced for the foreseeable future. The Working Group recommends DCP consider and report to Mayor and Council whether the City should not further restrict to-go sales, if the State continues to allow sales for offsite consumption.

- 5h. Consider the necessity and/or benefits of extending all expiring conditional use permits for a period of up to 36 months after the expiration of the Coronavirus COVID-19 Emergency Declaration, unless there is an active revocation proceeding relative to the operation.

The Working Group also supported Council Motion 20-0380-S1 to extend the term of expiring CUPs to 12 months after the expiration of the Coronavirus Emergency Declaration. Given the depth of the emergency and the lack of funding to support small business activities, it is recommended that the Council consider extending the term of existing CUPs to 36 months after the expiration of the Coronavirus Emergency Declaration. DCP should consider and report to Mayor and Council on the necessity and/or benefits of extending all expiring conditional use permits for a period of up to 36 months after the expiration of the Coronavirus COVID-19 Emergency Declaration, unless there is an active revocation proceeding relative to the operation.

As stated in the City Planning Department's Web site: "City Planning is proposing a program to permit eligible sit-down restaurants to serve alcohol through an administrative clearance process. The Restaurant Beverage Program (RBP) is intended to save applicants time and money. Largely as a result of community input, the ordinance incorporates over 50 eligibility criteria, operating standards, and enforcement procedures. If approved, these requirements and restrictions will be applied citywide, contributing to consistency and equity in the review of alcohol permits." The Working Group applauds and supports this important effort, which could save small businesses 10-12 months in discretionary review, reducing startup costs by as much as almost \$1 million in some cases.

- 5i. Consider the effectiveness and constraints of formally repealing LAMC § 12.22 A.23(b)(5) requiring owners of commercial properties next to residentially zoned properties to record covenants limiting commercial operations and consider alternative compliance measures.

The “Mini-Shopping Centers and Commercial Corner Development” section of the Zoning Code (LAMC 12.22 A.23) was enacted in 1986 to stem the proliferation of “mini-malls,” many of which had been built on the sites of former gas stations by a single developer. Tenants of mini-shopping center/commercial corner properties are subject to an ordinance requiring a signed, notarized and recorded covenant before they can move forward with a building permit. Often, a change of use or substantive addition (>20% increase in floor area) triggers this requirement. The Municipal Code imposes use and operational restrictions including limiting the hours of operation on these properties. Because the tenant does not own the property, they cannot record a covenant, and property owners often do not understand the requirement. The required covenants often cause significant delays as property owners refuse to sign them. In turn, tenants are forced to apply for expensive and time-consuming use permits to deviate from the restrictions.

A provision of the Mini-Shopping Center and Commercial Corner regulations (LAMC § 12.22 A.23(b)5) requires owners of commercial properties adjacent to residential uses, many of which are pedestrian-oriented street-retail buildings never intended to be subject to such regulations, to record a land-use covenant acknowledging the constraints of the regulations within LAMC Section 12.22.A.23(b)(5) prior to the issuance of *any* building permit. This has proven problematic for small business restaurant tenants in these often-older properties, as tenants cannot legally record covenants on behalf of a property owner and many property owners are reluctant to record covenants, particularly when it is not clear why they are necessary. Tenants are often unable to convince the landlord to record the covenant at all, but this does not typically discharge the tenant from their ongoing lease obligations.

It is the Working Group’s understanding that the pending Zoning Code update is likely to rewrite the Commercial Corner rules altogether, although it is unclear when the pending update will be completed and approved. In the meantime, the Working Group strongly recommends that the City reduce any potential burdens to businesses by waiving the requirements of Section (b)5 of the Mini-Shopping Center and Commercial Corner Development Ordinance. As a long term solution, the Working Group recommends that the DCP evaluate and report to the Mayor and Council on the continuing feasibility of LAMC Section 12.22 A.23(b)(5), including its constraints and alternative compliance measures.

Los Angeles Fire Department (LAFD) Recommendations

- 6a. Consider the defined parameters necessary to allow for small construction and tenant improvement projects to undergo plan checks by video conference appointment.
- 6b. Consider immediately notifying applicants by email when plan corrections are available.

Traditionally, LAFD has required private plan checks for most projects, which is a process whereby applicants drop off plans, wait for LAFD to issue corrections, pick up plans, make modifications and then resubmit, starting the process over again. This “back-and-forth” process can add over a month to an already lengthy process. While private plan check

is appropriate for complex projects, simple ones (such as tenant improvements or small new construction projects) could be finalized much more efficiently with an "appointment plan check." This way, the applicant and plan checker can dialog and solve problems in real-time, often eliminating the need for many weeks of back-and-forth.

According to LAFD, a process for appointment plan checks has already been established but has not been implemented due to the COVID-19 emergency. The Working Group recommends LAFD consider and report to Mayor and Council on using video conference technology to allow for appointment plan checks now, with in-person appointments when safe. It is appropriate for LAFD to define parameters for what projects are eligible for appointment plan-check, for example, new construction and tenant improvement projects that do not exceed 6,000 sq. ft. and have occupant loads under 299. It is further recommended that LAFD consider and report to Mayor and Council on making it standard practice to notify applicants by email immediately when plan corrections are necessary.

- 6c. Consider updating the inspection services website to provide customers a description of "pre-walk" inspections and notify of their availability.
- 6d. Consider including "pre-walk" inspection descriptions and availability within the standard reply customers are emailed when receipts for plan check services paid are completed

The weeks before a restaurant or bar opens are by far the costliest. During that time, owners must typically pay full rent, full payroll, and maintain a full pantry of supplies. Each day that they are not allowed to engage in revenue operations can add more than \$2,000 of costs. One common source of delay at this stage occurs during the final Fire inspection if the Fire Marshall identifies minor corrections such as additional exit signs and/or emergency light fixtures that will be required before final approval. While the cost of these items may be nominal, the days spent waiting for them to be installed, waiting to schedule a follow-up inspection, and waiting for final LAFD approval can be overwhelming.

LAFD already offers a service, known as a "pre-walk", to help reduce these end-of-project delays, with a Fire Marshall several weeks before the Certificate of Occupancy is expected. A pre-walk is an optional informal inspection in which the Fire Marshall identifies key issues, such as additional exit signs or emergency lights that will be required, and the applicant typically can perform corrections without delaying final project completion. While pre-walks are already available, many applicants, contractors, and designers are not aware of them, particularly first-time applicants and small businesses who do not have access to sophisticated consulting teams. As such, it is recommended that LAFD consider and report to Mayor and Council on updating its website to include a description of the vital Pre-Walk inspection, and including the availability and description when customers are emailed paid receipts for plan check services as standard practice. A fee for the first inspection, up to two hours is included in plan check fees, and any subsequent inspections are charged an hourly fee. Therefore, the vital pre-walk inspection can be completed and corrections performed without delaying the final project completion.

Los Angeles Department of Water and Power (LADWP) Recommendations

- 7a. Consider creating a case management system to oversee applications for service upgrades from application through delivery.
- 7b. Consider directing that service upgrades to run concurrently with building permit applications, without waiting for building permits to be issued, if feasible.

Today, LADWP service upgrades require actions from multiple units within the Department, and there is no single source of accountability that applicants or other stakeholders can depend on to guide projects through the process. As a result, applicants cannot reliably predict when service upgrades will be installed, and it requires extraordinary efforts to identify and resolve breakdowns in the process. The result is that LADWP service upgrades are often a source of construction-period delays in FSE projects. The Working Group recommends that DWP be requested to consider and report to Mayor and Council on creating a case management system, staffed by case managers who will oversee a project from application through delivery.

Further, it is recommended that DWP research and report to Mayor and Council whether service upgrades can run concurrently with building permit applications, without waiting for building permits to be issued, when practicable. DWP could conduct a study on the effectiveness and constraints of the recommendation for service upgrades to occur concurrently with building permits and a provision to hold applicants liable for upgrades even if they do not proceed with the project.

LA Sanitation & Environment (LASAN) Recommendation

8. Consider implementing the COVID-19 Industrial Waste Fee Relief Program to assist Industrial Users experiencing financial hardship due to mandatory closures and loss of revenues. This program will suspend the delinquency fees for the 1st and 2nd billing quarters and provides options for installment payments.

It should be noted that LASAN took the initiative to prepare its items in response to the Council motion that launched the Working Group's process. LA Sanitation & Environment is recommending the implementation of the COVID-19 Industrial Waste Fee Relief Program to assist Industrial Users experiencing financial hardship due to mandatory closures and loss of revenues. This program will suspend the delinquency fees for the 1st and 2nd billing quarters and provides options for installment payments. LA Sanitation & Environment aims to assist businesses to continue to operate and stay afloat during this challenging time. Delinquency fees are penalties for Industrial Waste fees that are not paid by the due date. The delinquency fees, together with the unpaid principal balance, are added and carried over to the next quarter's invoice. LASAN strongly believes that during and after this Covid-19 pandemic outbreak, these businesses are and will continue to be challenged to stay open and therefore need assistance, not penalties. The Working Group recommends that LASAN evaluate and report to Mayor and Council on implementing the COVID-19 Industrial Waste Fee Relief Program (which would suspend the delinquency fees for the 1st and 2nd billing quarters and provides options for installment payments) to assist Industrial Users experiencing financial hardship due to mandatory closures and loss of revenues.

Annual Reporting

Currently, departments often have limited capacity to evaluate processes and policies. To address feedback obtained through the survey, key development services departments (LADBS, DCP, LAFD, BOE, LADOT, and EWDD) should be instructed to report to City Council and Mayor's Office on an annual basis on how they are improving policies and processes to assist small businesses.

LA County Public Health Program Support or Administrative Action Items

The County of Los Angeles has convened a Small Business Sector Task Force to develop plans and recommendations for economic recovery for businesses. The Working Group worked extensively with the LA County Public Health Department to develop the following proposals and recommendations to County-led processes and policies to provide to the Small Business Sector Task Force (Task Force):

10a. Support for an update to codes regarding all-gender restrooms.

In 2017, AB 1732 mandated that all commercial single-occupant restrooms in California be designated "all-gender" as opposed to single-sex. At the same time, the County of Los Angeles has not updated its code accordingly and still requires separate-gender restrooms in wholesale food facilities and bars. It is recommended to the Task Force that LACC 11.12.070 be revised to require all single-occupant restrooms and changing rooms be designated "all gender." It is further recommended that in facilities less than 2,500 SF, just one single occupant changing room be required.

10b. Request for consideration to create simple processes for restaurants to convert the dining area to dry market retail.

Operational changes to recover from the COVID-19 pandemic will be needed. Discussions with County Public Health included exploring the allowance of a template for approving existing restaurant health permit holders who wish to convert their dining rooms to dry market retail areas, which share the same plan check guideline requirements, and a proposed expedited approval process with anticipated minimal impact to County Public Health staff. County Public Health executives will review the guidance for plausibility. Provide template guidelines allowing for over-the-counter approval of applications to convert existing indoor restaurant dining areas into retail market areas where patrons can purchase packaged food and dry goods, which would help businesses reinvent their operations.

10c. Consideration of elimination of the requirement for multiple restrooms in establishments serving alcoholic beverages.

Remove the separate sex restroom requirement for establishments serving alcoholic beverages. This requirement, outlined in Los Angeles County Code Title 11, Section 11.38.570 (D), cannot be met by many small restaurants and only provides minimal advantages for patrons. Furthermore, this requirement contradicts AB 1732 (state law requiring gender-neutral restrooms) which creates confusion, frivolous lawsuits against operators, and impractical construction requirements for small businesses.

- 10d. Remove LA County Plan Check requirement to submit three sets of hard-copy plans for initial review.

Remove the LA County Plan Check policy that requires applicants to submit three sets of plans for an initial review. Health approvals require three sets of stamped plans; however, for most submissions, Health Department staff issue comments and corrections which void the submitted plans. These corrections are addressed with subsequent submission of three additional sets. Requiring three sets of plans at the initial submittal wastes time and paper and takes up valuable office space at the Health Department. Note that County Public health has already implemented this policy.

- 10e. Offer over-the-counter plan check for qualifying small restaurants.

LA County should offer over-the-counter plan check appointments for qualifying small restaurants requesting minimal improvements. The minimal improvements can include prepackaged food only, and alterations under 300 square feet in existing approved facilities. Over-the-counter plan check will allow for real-time problem solving, eliminating the need for a multi-week formal process.

- 10f. Allow small locations to locate grease traps under 3-compartment sinks.

Smaller locations of less than 2,000 square feet should be allowed to locate grease traps under 3-compartment sinks rather than in a separate room or enclosure. Altering the current policy to allow above ground grease traps to be located under 3-compartment sinks rather than in a separate room or enclosure will assist FSEs, as these grease mitigation systems were designed to be placed under a 3-compartment sink, and many restaurants do not have the floor area to locate this equipment in another room or enclosure.

- 10g. Modify requirements for under-counter dishwashers, as further detailed in this report to assist small businesses in Los Angeles.

Under-counter dishwashers are an important space-saving solution, particularly for smaller FSEs. These machines are made to sit directly under the drainboard of a 3-compartment sink or a low drain-table counter. Under-counter dishwashers should be allowed, even without after-market legs or casters, if the applicant can demonstrate how the area beneath them can be cleaned. Current LA County Public Health regulations require this equipment to be raised by installing additional legs or casters.

The Working Group recommends requesting City Council, with the concurrence of the Mayor, to include in the City of Los Angeles 2021-2022 State Legislative Program, sponsorship and support of legislation or administrative action by the County of Los Angeles to implement the recommended actions discussed in the section above.

State Legislative Program Support or Administrative Action Items

Several of the Working Group's recommendations are based on California State codes and would require State code amendments, including:

- 11a. Allow food preparation areas to be open to the outside if they can be fully enclosed and secured after hours.

Eliminate the State requirement that restaurant preparation areas be fully enclosed during operating hours if they can be fully enclosed after hours. Public health imperatives suggest that fresh air should be maximized in occupied areas. In the past, food prep and service areas could be open to the outside, providing for excellent fresh air circulation. Notable examples include Pink's Hot Dogs and the Grand Central Market. However, recent changes to the California Retail Food Code require new food prep areas to be fully enclosed, making it difficult and unnecessarily expensive to operate open-air dining areas and take-out windows. Industry members are already working with the California Retail Food Safety Coalition to petition for a change to Cal Code that would allow for food preparation areas to be open to the outside if they can be fully secured after hours. The Working Group recommends that the City Council formally support this process.

- 11b. Remove the requirement to add a hood system over electrical (no-flame) countertop equipment.

Remove the requirement to add a hood system over electrical (no-flame) counter-top equipment. Today, State law requires cooking hoods even for simple counter-top electrical heating and cooking devices such as panini presses, which adds significant unnecessary cost to casual dining environments. The Working Group supports eliminating this requirement from State law, allowing local agencies to make and enforce their standards.

- 11c. Classify coffee service equipment as "low risk" to assist small businesses in Los Angeles.

Change the California Retail Food Code to classify coffee service equipment as "low risk," identical to current classification of bars. The practice of holding coffee preparation areas to the same standards as general food preparation is prohibitive and unnecessary. Currently, operators cannot have outdoor coffee bars because they are treated in the same way as a full kitchen. Coffee bars are also required to provide special ceilings if an operator wishes to have an espresso machine at a beverage bar. These requirements are impractical for such a low-risk beverage like coffee.

- 11d. Exempt outdoor dining areas, whether covered or uncovered, from occupant load calculation as they relate to fire sprinklers.

The California Building Code currently requires fire sprinklers for an entire building if its occupant load exceeds 99. The occupant load of covered patios is included in this calculation. As a result, a restaurant tenant that adds a covered patio to its operation may trigger the requirement to add fire sprinklers to its entire premises. This creates a major barrier to the expansion of outdoor dining. It is therefore recommended that outdoor eating areas (whether covered or uncovered) be exempted from occupant load calculations as it relates to added fire sprinklers.

The Working Group recommends requesting City Council, with the concurrence of the Mayor, to include in the City of Los Angeles 2021-2022 State Legislative Program

sponsorship and support of legislation which would implement the recommended actions discussed in the section above.

CONCLUSION

The policy amendments proposed within this report for City Council and Mayoral consideration can spur economic recovery and provide relief to suffering enterprises. The recommendations were developed in partnership with industry experts and City staff with considerations to target small business growth and sustainability. All enterprises will benefit from the implementation of these recommendations, but small businesses are especially affected by the declining sales, operational challenges, and financial uncertainty of the COVID-19 pandemic. Therefore, the Working Group targeted small and privately owned business needs in the framework for these disaster relief proposals. The Food and Beverage industry has been hit extremely hard by COVID-19 and is at the highest risk of not surviving unless they can reinvent operational modes. According to a recent report from Yelp, the online service that provides crowd-sourced reviews, sixty percent of restaurants that shut down during the pandemic are now closed for good, reflecting the highest total of business closures. As of July 10, 2020, Yelp found 26,160 total restaurant closures nationwide. To enable the Food and Beverage businesses in the City of Los Angeles to safely modify operations while protecting public health is vital to ensure the survival of the City of Los Angeles' most vulnerable businesses and workers.

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Attachment 1: Food and Beverage Workgroup Report Back

Attachment 2: Food and Beverage Workgroup Report Back Public Survey