



TRACI PARK

LOS ANGELES COUNCILWOMAN ★ 11TH DISTRICT

June 5, 2023

Members of the Planning Land Use Management (PLUM) Committee
City of Los Angeles
200 North Spring Street
Los Angeles, CA 90012

RE: Case No.: CPC-2022-8179-CA CEQA: ENV-2022-8180-CE, CF #: 20-1074-S4

Considerations for the Permanent AI Fresco Ordinance

To the Honorable Members of the PLUM Committee:

As we transition from the temporary AI Fresco authorization to a permanent program, my staff and I have been working closely with restaurateurs, neighbors, and City Planning staff to come up with sensible and affordable policies for outdoor dining that consider nuanced regional, economic, and community issues. I am encouraged to see that the revised draft of the Permanent AI Fresco Ordinance not only addressed a number of concerns brought up by restaurant owners and stakeholders from within my district, but also included many of the policy recommendations that transpired from our Advisory Group working sessions.

This letter highlights three priority concerns. The first is in regard to the curfew for restaurants located near a residential zone, the second calls for enforcement of noise violations, and the third is about easing coastal permit requirements needed to maintain outdoor dining in the Coastal Zone.

Applicability of Curfew Requirements

The current ordinance states that “an Outdoor Dining Area shall operate no later than 11 p.m. if within 250 feet of a residential zone, not including the RAS zone.”

Earlier versions of the ordinance applied the curfew more selectively to outdoor dining areas adjacent or across an alley to a residence. **This expansion of the applicability of curfew requirements is a clear mistake that must be rectified.** Planning staff analyzed this regulation and found that over 80% of restaurants City-wide would be affected by this curfew. To support our restaurants and food establishments, which were hard hit during the pandemic and for whom AI Fresco remains a lifeline, I strongly recommend that this provision be modified and tailored to only apply to Outdoor Dining Areas adjacent to or across the alley from a residential zone. The above provision should read as follows:



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“An Outdoor Dining Area shall operate no later than 11 p.m. if adjacent or across an alley to a residential zone, not including the RAS zone.”

Enforcement of Noise and Music Levels

City Planning proposes to allow ambient music in outdoor dining areas in the latest draft of the AI Fresco ordinance, based on findings made in a report by City Planning dated May 26, 2023. While it is standard business practice for restaurants to have ambient music playing in dining areas, the ordinance must provide immediate enforcement mechanisms to penalize businesses with outdoor dining areas that generate excessive noise. Clear protocols should be in place to ensure that restaurant owners and operators are held accountable if they're too loud. Without the ability to hold businesses accountable for their actions, residents living near these establishments will have no capacity to get the owners to comply with the ordinance.

The final ordinance should include provisions for immediate remedies such as escalating fines and a revocation process for repeated offenses. Our current system, which routes all general noise complaints to LAPD, has been marginally effective. City Planning has indicated that additional resources would be needed to properly enforce an expanded outdoor dining program and, as such, I want to affirm a commitment to fund enforcement agencies to ensure that the AI Fresco program is successful.

Coastal Permits for Outdoor Dining

In the Coastal Zone, restaurants participating in the AI Fresco Program will need assistance in obtaining a coastal permit to continue their outdoor dining operations. City Planning has issued approximately 154 temporary authorizations for outdoor dining in the Coastal Zone. A Coastal Development Permit (CDP) is typically required for restaurants within the Coastal Zone that seek to add or expand outdoor dining space. However, during the COVID-19 pandemic, a number of state laws were enacted to provide an easy path for dining establishments to obtain temporary authorizations for outdoor dining.

Governor Newsom signed into law Assembly Bill 61 (AB 61), which temporarily suspends local parking requirements for outdoor dining. AB 61 will remain in effect through December 31, 2023. Additionally, the Coastal Commission has granted a number of CDP waivers to allow outdoor dining areas and other pandemic-related activities. These temporary waivers will be extended to December 31, 2023 by virtue of AB 61.

Once AB 61 sunsets at the end of this year, a restaurant in the Coastal Zone looking to make their outdoor dining areas permanent would need to obtain a CDP in order to continue their outdoor dining operations. The costs and time needed to obtain a Coastal Development Permit are significant and impose a serious burden on our coastal food establishments. The timeline for processing a CDP is around 6 to 9 months and the fee is approximately \$16,000. This extra burden on our Coastal Zone restaurants is unfair and the City must act in good faith to address this inequity.



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City Council has previously instructed City Planning staff to develop a programmatic CDP to lessen the burden on existing Al Fresco businesses in the Coastal Zone. The idea behind a programmatic CDP is to shift the costs of getting a CDP from individual businesses to the City. This can save restaurants both money and time by consolidating multiple CDPs under one application process. As of now, a programmatic CDP has been discussed at a cursory level and the details of how it will be implemented are not mentioned at all in the current draft ordinance.

If no provisions are made for our 154 restaurants in the Coastal Zone, then starting January 1, 2024, their outdoor dining spaces allowed under the temporary authorization would be in violation of the Coastal Act, subject to enforcement by the Coastal Commission. This outcome is unacceptable and can only be avoided if the City takes action now. City Planning must be provided with the resources necessary to create and implement a programmatic CDP to allow our Coastal Zone restaurants to continue with outdoor dining.

Request to PLUM Committee

Therefore, I ask that the members of the PLUM committee request the Department of City Planning to amend the ordinance to limit the application of the curfew to restaurants adjacent and across an alley to a residential zone. With regard to ambient noise and music, I also request that Planning staff be instructed to include reasonable enforcement provisions in the final draft of the ordinance.

Additionally, I ask that this PLUM committee instruct the Department of City Planning - in collaboration with with the Department of Transportation (LADOT), Department of Building and Safety (LADBS), Bureau of Engineering (BOE), and the City Attorney's Office - to report back with a work program to establish a programmatic CDP for outdoor dining in the Coastal Zone. The CDP shall cover Al Fresco dining occurring on private property as well as the public right-of-way. The report shall also address any concerns raised by Coastal Commission staff.

Very truly yours,

TRACI PARK
Councilwoman, 11th District
City of Los Angeles