

## **ATTACHMENT A**

### **Pertinent Code Sections and Draft Permit Findings**

## **Article 19.5. Transition Between Commercial And Residential Uses**

### **10-3-1951: DEFINITIONS:**

For the purposes of this article, certain words and phrases used in this article are defined as follows:

**ADJACENT TO A RESIDENTIAL ZONE:** A site that shares a property line with a residentially zoned property or is separated from a residentially zoned property by a public alley. Any portion of public right of way which abuts a residentially zoned property shall be deemed to be adjacent to a residential zone.

**COMMERCIAL REFUSE BIN:** A trash container which is designed for front loading refuse collection trucks and is utilized by a commercial establishment.

**COMMERCIAL-RESIDENTIAL TRANSITION AREA:** That portion of a commercial zone or the RMCP zone that is located within one hundred seventy feet (170') of either a residential zone or the RMCP zone. "Commercial-residential transition area" shall also include sites located within a residential zone which are used primarily by commercial uses which were legally authorized prior to the change to a residential zone classification. Notwithstanding the foregoing, "commercial-residential transition area" shall not include either those properties located on the northerly side of the street on Santa Monica Boulevard, south roadway, or those properties located on the southerly side of the street on Wilshire Boulevard west of Santa Monica Boulevard, north roadway.

**DELIVERY, LOADING, OR UNLOADING:** The transfer of a shipment of goods, wares, merchandise, mail, or similar items, to or from a vehicle, or the loading of persons into a vehicle, or the unloading of persons from a vehicle.

**EXTENDED HOURS:** The time between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. on the following weekday, and the time between the hours of ten o'clock (10:00) P.M. and nine o'clock (9:00) A.M. on the following weekend day or holiday.

**EXTENDED HOURS OPERATION:** A commercial use that receives patrons during extended hours. (Ord. 81-O-1797, eff. 6-11-1981; amd. Ord. 96-O-2270, eff. 11-27-1996; Ord. 99-O-2324, eff. 3-19-1999)

### **10-3-1952: COMMERCIAL USE SETBACKS:**

It shall be unlawful for any person to erect or construct any building, structure, or

improvement, or any part thereof, on a site located in a nonresidential zone and located adjacent to a residential zone unless the following setbacks are maintained:

- A. If the nonresidential site abuts an alley which separates the nonresidential zone from the residential zone, no building, structure, or improvement, either above or less than eight feet (8') below the grade level, except a wall or other improvement otherwise permitted by this article shall be located within six feet (6') of the edge of the alley adjacent to such site; or
- B. If there is no alley between the nonresidential site and the residential zone, the following setbacks shall be maintained, except as otherwise permitted by this article:
1. No building, structure, or improvement located less than eight feet (8') below the grade level shall be located within six feet (6') of the property line abutting the residential zone.
  2. No building, structure, or improvement, or any part thereof, up to thirty feet (30') or two (2) stories in height, whichever is less, shall be located within ten feet (10') of the property line abutting the residential zone.
  3. No part of any building, structure, or improvement more than thirty feet (30') or two (2) stories in height, whichever is less, shall be located within twenty feet (20') of the property line abutting the residential zone.
- C. The director of planning and community development, pursuant to article 36 of this chapter, may permit improvements in the setback required by subsection B of this section as is necessary to accommodate building code requirements if the director of planning and community development finds that the proposal will be compatible with the adjacent residential area.
- D. If a retail department store is developed in accordance with the commercial retail planned development overlay zone (C-R-PD) standards set forth in article 18.2 of this chapter, subsections A and B of this section shall not apply, and such retail department store shall be developed in accordance with the setback requirements of said article 18.2 of this chapter. (Ord. 81-O-1797, eff. 6-11-1981; amd. Ord. 89-O-2081, eff. 12-7-1989; Ord. 96-O-2270, eff. 11-27-1996)

### **10-3-1953: WALLS REQUIRED FOR RESIDENTIAL-NONRESIDENTIAL TRANSITION:**

Notwithstanding the setback requirements of section 10-3-1952 of this article, no person shall erect, construct, or enlarge any building, structure or improvement on a nonresidential site adjacent to a residential zone unless that person constructs a wall along the property line separating the residential and nonresidential uses.

A. Nonresidential Site That Abuts An Alley: If the nonresidential site is separated from the residential zone by an alley, then a three foot (3') high solid masonry wall shall be constructed and maintained along the property line that abuts the alley. There shall be no opening in such wall; provided, however, there may be an opening a maximum of twenty five feet (25') wide in such wall as is necessary to accommodate a driveway providing access to the parking area or loading dock of the structure from the alley when such access is otherwise permitted by the city engineer or the director of building and safety. The director of planning and community development, pursuant to article 36 of this chapter, may permit openings not exceeding a width of five feet (5') in such wall as is necessary to accommodate building code requirements if the director of planning and community development finds that the proposal will be compatible with the adjacent residential area.

1. Materials Allowed: A reviewing authority may allow the use of any wall material other than masonry, and may further allow a wall constructed of material other than masonry to be a maximum height of three feet six inches (3'6"), provided the reviewing authority finds that the alternative wall material or design and the additional height will not have a substantial adverse impact on the adjacent residential property.

2. Minor Accommodation: Notwithstanding the provisions of this subsection A, a reviewing authority may issue a minor accommodation pursuant to article 36 of this chapter to allow an opening of up to thirty feet (30') in width in a wall along the property line that abuts the alley, provided the reviewing authority finds that the increased size of the opening will not have a substantial adverse impact on traffic safety, noise, the scale and massing of the streetscape, or garden quality of the city.

B. Nonresidential Site That Abuts A Residential Rear Property Line: If the nonresidential site abuts the rear property line of a residential site, then a solid masonry wall shall be constructed and maintained along the nonresidential property line. The height of the wall shall be at least six feet (6'), but shall not exceed the maximum height permitted along the abutting residential property line.

1. Minor Accommodation: Notwithstanding the provisions of this subsection B, a reviewing authority may issue a minor accommodation pursuant to article 36 of this chapter to allow a wall of up to ten feet (10') in height along a property line abutting a residential rear property line, provided the reviewing authority finds that the wall will not have a substantial adverse impact on traffic safety, the scale and massing of the streetscape, or garden quality of the city.

A reviewing authority may also issue a minor accommodation to allow for any wall

material other than masonry, provided the reviewing authority finds that the choice of alternate wall material will not have a substantial adverse impact on the privacy, security or residential quality of the adjacent residential property.

- C. **Nonresidential Site That Abuts A Residential Side Property Line:** If the nonresidential site abuts the side property line of a residential site, then a solid masonry wall shall be constructed and maintained along the nonresidential property line. Within the area abutting the front yard of the residential property, the wall shall be constructed at the maximum height permitted along the abutting residential property line. Within all other areas, the height of the wall shall be at least six feet (6'), but shall not exceed the maximum height permitted along the abutting residential property line.
1. **Minor Accommodation:** Notwithstanding the provisions of this subsection C, a reviewing authority may issue a minor accommodation pursuant to article 36 of this chapter to allow a wall of up to ten feet (10') in height along a property line abutting a residential side property line, provided the reviewing authority finds that the wall will not have a substantial adverse impact on traffic safety, the scale and massing of the streetscape, or garden quality of the city.

A reviewing authority may also issue a minor accommodation to allow for any wall material other than masonry, provided the reviewing authority finds that the choice of alternate wall material will not have a substantial adverse impact on the privacy, security or residential quality of the adjacent residential property.

- D. **Finish:** All walls constructed pursuant to this section shall be finished on each side of the wall. (Ord. 81-O-1797, eff. 6-11-1981; amd. Ord. 96-O-2270, eff. 11-27-1996; Ord. 98-O-2293, eff. 4-17-1998; Ord. 01-O-2389, eff. 1-10-2002; Ord. 02-O-2395, eff. 4-5-2002)

### **10-3-1954: LANDSCAPING OF SETBACKS FOR COMMERCIAL USES:**

- A. **Landscaping Plans:** The setback area required pursuant to the provisions of section 10-3-1952 of this article shall be improved with landscaping in conformance with a plan which meets all of the following criteria and which has been reviewed and approved by the architectural commission in accordance with section 10-3-3007 of this chapter:
1. Landscaping shall be of a type and density to provide a texture, buffer, or screen between nonresidential and residential zones as deemed appropriate for the location by the architectural commission.
  2. Landscaping shall be of a type and size which will provide such texture, buffer, or screen to a reasonable extent when initially planted and which will grow to a size and

configuration to achieve the full intent of such buffer within a reasonable amount of time.

3. Plants shall be of an appropriate type so as to minimize the dropping of leaves or needles onto adjacent properties or alleys or shall be capable of being readily maintained so as to minimize such dropping.
4. Plants shall have a root structure which will not displace or damage paved areas and which will not interfere with nearby utility systems.

B. Landscaping Maintenance: Such landscaping shall be maintained in accordance with the provisions of a landscape maintenance plan approved by the architectural commission which shall provide for the irrigation, fertilization, trimming and replacement of plants on a schedule appropriate to the types and quantities of plants utilized in such landscaping. (Ord. 81-O-1797, eff. 6-11-1981; amd. Ord. 96-O-2270, eff. 11-27-1996)

### **10-3-1955: COMMERCIAL-RESIDENTIAL TRANSITION; GENERAL DEVELOPMENT REQUIREMENTS:**

Notwithstanding any other provision of this chapter, it shall be unlawful for any person to erect or construct any building, structure, or improvement, or any part thereof, on a site located in a nonresidential zone and located adjacent to a residential zone unless all of the following conditions are met:

- A. No mechanical venting faces any residential use;
- B. No mirrored or reflective glass or material is used on the facade of the building, structure, or improvement which faces any residential use;
- C. No loading dock faces any residential use; provided, however, this subsection shall not apply to any site which is not a corner site and which abuts an alley which separates the nonresidential zone from the residential zone; and
- D. The building, structure, or improvement is designed to allow for adequate sight lines for vehicular ingress to and egress from each adjacent residential use or alley. (Ord. 96-O-2270, eff. 11-27-1996)

**10-3-1956: COMMERCIAL-RESIDENTIAL TRANSITION; GENERAL OPERATIONAL REQUIREMENTS:**

- A. Except as provided in subsection B of this section, it shall be unlawful for any person to commence or conduct, either directly or indirectly, any commercial use on a site located in a commercial-residential transition area except in conformance with the following requirements:
1. No deliveries shall be received, and no loading, or unloading shall be permitted during extended hours unless:
    - a. The deliveries, loading, or unloading operation is conducted entirely within an enclosed structure, or
    - b. The deliveries, loading, or unloading operation is conducted exclusively from a public right of way that is not adjacent to a residential zone or RMCP zone.
  2. Refuse shall not be deposited into a commercial refuse bin located outside of an enclosed structure on private property or on a public right of way that is adjacent to a residential zone or RMCP zone during extended hours unless such refuse is in sealed bags.
  3. Commercial refuse bins shall not be moved in a public right of way adjacent to a residential zone or RMCP zone, or within the area between a commercial structure and a residential zone or RMCP zone during extended hours, except by waste haulers operating pursuant to a franchise with the city that permits such activity during extended hours.
  4. All commercial refuse bins shall be equipped with nonmetallic lids which shall remain closed at all times.
  5. For those businesses operating pursuant to an extended hours permit issued pursuant to section 10-3-1958 of this article, the name and telephone number of a person who will be available during the operational hours of the business to address a problem with the subject establishment shall be posted in a conspicuous place on the exterior of the building housing the establishment. The sign shall not exceed four (4) square feet in size and the letters on the sign shall be not less than one-half inch ( $\frac{1}{2}$ " ) nor more than one inch (1") in height. The contact person shall be the business owner, business manager, or other similar person who has sufficient authority over the business to address problems that may disturb neighbors.
  6. All doors facing a residential zone shall remain closed at all times during extended hours except for the immediate purpose of ingress or egress. All windows to food preparation areas that face a residential zone shall remain closed at all times during extended hours.

7. Employees, agents, associates, or contractors of a nonresidential use shall not congregate behind the nonresidential structure or in any open area or public right of way separating a nonresidential structure and a residential zone or RMCP zone during extended hours.
8. All businesses in the commercial-residential transition area shall comply with all provisions of title 5, chapter 1, article 1 of this code, regarding general noise regulations. In order to promote compliance with said provisions, and in addition to said provisions, all businesses in the commercial-residential transition area shall comply with the following requirements:
  - a. The employees, agents, associates, or contractors of a business shall not engage in conduct or activity which substantially or unreasonably disturbs the peace and quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area during extended hours.
  - b. No activity shall be conducted on the premises in a manner which substantially or unreasonably disturbs the peace and quiet of the surrounding neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area during extended hours.
  - c. The factors which shall be considered in determining whether activity described in subsections A8a and A8b of this section violates this section shall be the criteria specified under section 5-1-104 of this code, including, but not limited to, the following:
    - (1) The volume of the noise;
    - (2) Whether the nature of the noise is usual or unusual;
    - (3) Whether the origin of the noise is natural or unnatural;
    - (4) The volume of the background noise;
    - (5) The proximity of the noise to residential sleeping facilities;
    - (6) The time of day or night the noise occurs;
    - (7) The duration of the noise;
    - (8) Whether the noise is recurrent, intermittent, or constant.

B. The operational requirements set forth in subsection A of this section shall not apply to:

1. The following business classifications:
  - a. Professions and semiprofessions (classification C), as defined under subsection 3-1-219C of this code, excluding medical offices and medical laboratories as defined under section 10-3-100 of this chapter;

- b. Residential or commercial property rental and leasing (classifications E and F), as defined under subsections 3-1-219E and F of this code;
  - c. Agencies, lenders, brokerages, and other similar services (classification G), as defined under subsection 3-1-219G of this code;
  - d. Depository financial institutions, branch and sales office locations (classification H), as defined under subsection 3-1-219H of this code;
  - e. Corporate offices; or
2. Hotels and hotel appurtenant service uses as defined in article 28.6 of this chapter; or
  3. Projects approved by the planning commission or the city council on an appeal through any of the following procedures when the resolution of approval specifically and explicitly addressed extended hours activities associated with the project:
    - a. Development plan review;
    - b. Conditional use permit;
    - c. Planned development review; or
  4. Vehicle fuel stations.
- C. A minor accommodation may be granted pursuant to the procedures and requirements of article 36 of this chapter, to relieve an applicant of one or more of the operational requirements prescribed by subsections A1 through A7 of this section if the director of planning and community development finds:
1. The applicant cannot comply with the subject requirements, and
  2. The applicant will comply with subsection A8 of this section. (Ord. 96-O-2270, eff. 11-27-1996; amd. Ord. 99-O-2324, eff. 3-19-1999; Ord. 05-O-2489, eff. 12-16-2005)

### **10-3-1957: TRANSITIONAL USE LICENSES:**

- A. Except as provided in subsection C of this section, no commercial activity shall be commenced or conducted in a commercial-residential transitional area without a valid transitional use license and, if applicable, an extended hours permit. The department of finance administration shall issue a transitional use license upon compliance with the following requirements:
1. The applicant agrees in writing that:

- a. The applicant has read and understands the requirements of this article; and
  - b. The subject business will, at all times, comply with all requirements of this article, including any conditions imposed pursuant to this article by the director of building and safety to ensure compliance with all requirements of this article; and
  - c. In the event that the director of planning and community development has a reasonable basis to believe that the subject business may be in violation of the requirements of this article or any other provision of this code, and that substantial progress is not being made toward the correction of such violation, the director of planning and community development shall have the authority to refer the subject business to the planning commission for revocation of the transitional use license.
2. The applicant submits a name and telephone number of a person who is available during operational hours of the business to address all problems with the subject establishment; and
  3. The subject business does not have an uncured violation of this article, any other provision of this code, or any condition imposed on a transitional use license or extended hours permit pursuant to section 10-3-1959 of this article, except where substantial progress is being made toward the correction of such violation to the satisfaction of the director of building and safety or the director of planning and community development; and
  4. A transitional use license has not been revoked for the subject business by the planning commission pursuant to section 10-3-1959 of this article.
- B. The planning commission may issue a transitional use license for a business whose transitional use license was previously revoked, if, after conducting a public hearing in accordance to the requirements specified in section 10-3-1959 of this article, the planning commission finds that the requirements specified under subsections A1 through A3 of this section have been met. In connection therewith, the planning commission may impose conditions on the approval of a transitional use license to ensure conformance to the requirements specified under subsections A1 through A3 of this section and to ensure that the permitted activity will not violate any provision of this code. The decision of the planning commission shall be appealable to the city council as provided by title 1, chapter 4, article 1 of this code.
- C. Notwithstanding subsection A of this section, no transitional use license shall be required for the uses exempted under subsection 10-3-1956B of this article.
- D. Filing Fees: No fee or charge shall be required for any application or form filed for a transitional use license. (Ord. 96-O-2270, eff. 11-27-1996)

**10-3-1958: EXTENDED HOURS PERMITS:**

- A. Except as provided in subsection H of this section, it shall be unlawful for any person to commence or conduct, either directly or indirectly, an extended hours operation on a site located in a commercial-residential transition area in the city of Beverly Hills without having procured an extended hours permit pursuant to the provisions of this article. Every person commencing or conducting any extended hours operation shall file an application for an extended hours permit with the department of planning and community development in a form prescribed by that department. The city council may, by resolution, establish fees for the review of such applications.
- B. A public hearing shall be held by the planning commission on all applications for an extended hours permit. The planning commission shall conduct such hearing, and shall issue a decision concerning the application, within ninety (90) days following the date an application is deemed complete. The deadline may be extended upon the request of the applicant. At least ten (10) days prior to such hearing, notice of the time, place, and purpose of the public hearing shall be sent by first class mail to each owner and occupant of a property in a single-family residential zone within a distance of five hundred feet (500') of the exterior boundaries of the subject property, and to each owner and residential occupant of property in a multiple-family residential or a nonresidential zone within three hundred feet (300') of the exterior boundaries of the project site. Such notice shall be sent to the property owners whose names and addresses appear on the latest equalized county assessment roll.
- C. The planning commission shall grant an extended hours permit if it finds that the extended hours operation will not substantially disrupt the peace, and quiet of the adjacent neighborhood as a result of any of the following:
1. The accumulation of garbage, litter, or other waste, both on and off of the subject site;
  2. Noise created by the extended hours operation or by employees or visitors entering or exiting the extended hours operation;
  3. Light and glare;
  4. Odors and noxious fumes;
  5. Pedestrian queuing;
  6. Crime or peril to personal safety and security;
  7. Use of residential streets for parking which is likely to cause activity associated with the subject extended hours operation to intrude substantially into a residential area;

8. Effects on traffic volumes and congestion on local residential streets; and
  9. Cumulative impacts relating to the existing concentration of extended hours operations in the vicinity of the proposed extended hours operation.
- D. To make the findings set forth under subsection C of this section, the planning commission may impose conditions of approval on a project to ensure that the factors set forth under subsection C of this section will not substantially disrupt the peace and quiet of adjacent residential and commercial uses or create significant environmental impacts on the community within the meaning of the California environmental quality act. Such conditions may include, without limitation, restrictions or modifications to the hours of operation requested by an applicant. The planning commission shall only impose conditions related to the impacts of an operation during extended hours.
- E. The decision of the planning commission shall be by resolution. The applicant or any person aggrieved by the decision may appeal the decision to the city council as provided in title 1, chapter 4, article 1 of this code. The city council shall conduct a hearing on the appeal in a timely manner.
- F. The operative date of the extended hours permit shall be the fifteenth day after the date upon which the applicant receives approval of the permit, provided no appeal has been filed on a timely basis pursuant to subsection E of this section.
- G. In the event that the planning commission has not acted on an application for an extended hours permit in accordance with the time limits specified under subsection B of this section, the application shall be deemed approved upon the expiration of the time limit. An appeal period during which such approval may be appealed to the city council as prescribed in subsection E of this section shall commence upon the expiration and deemed approval date.
- H. The provisions of this section shall not apply to any business that was legally operating during extended hours on December 27, 1996, as part of its customary weekly schedule of business operations. The provisions of this section shall also not apply to any business that was legally operating during extended hours on January 8, 1999, without the requirement of an extended hours permit, as part of its customary weekly schedule of business operations. These exemptions shall not be transferable by the existing business to a different business. For purposes of this section, a business shall be considered different from the existing business if:
1. The business has a different name, and

2. The business offers a product or type or style of service which, in the opinion of the director of planning, may result in additional patrons visiting the site during extended hours or additional vehicle trips to the site during extended hours.

Changes to product or service references in the name of a business shall not be considered a change to the name of the business.

Notwithstanding the foregoing, any business operating during extended hours pursuant to the exemptions set forth herein shall not expand its hours of extended hours operation in effect on January 8, 1999, except as permitted by an extended hours permit issued pursuant to this section, subject to the following exceptions:

- a. Such business may expand its hours of extended hours operation up until and including twelve o'clock (12:00) midnight, notwithstanding a shorter period of extended hours operation in effect on January 8, 1999;
- b. For any such business that was subject to and qualified for the exemption specified in this subsection H, as set forth in ordinance 96-O-2270, such business may expand its hours of extended hours operation up until and including twelve o'clock (12:00) midnight, notwithstanding there being no hours of extended hours operation in effect on January 8, 1999.

- I. Unless otherwise provided in the resolution granting an extended hours permit, the exercise of rights granted in such extended hours permit shall be exercised within one hundred eighty (180) days after the adoption of the final resolution granting such extended hours permit. The planning commission may grant a six (6) month extension of the time limit contained in this subsection, or in any resolution granting a discretionary approval, if an application therefore is made at least thirty (30) days prior to the expiration of the time limit, or any extension thereof. Such extension may be granted after a duly noticed public hearing held pursuant to the same procedures applicable to the approval of the original application, if the planning commission determines that conditions and regulations affecting development in the city have not changed in a manner that would warrant reconsideration of the findings and decision made at the time of the original approval. The time limit imposed pursuant to this subsection may not be extended beyond two (2) years after the adoption of the initial final resolution granting the extended hours permit. Any decision regarding an extension pursuant to this subsection may be appealed to the appropriate review authority in the manner provided by the same procedures applicable to the approval of the original application or, if no appeal procedures are specified, to the city council in the manner provided by title 1, chapter 4, article 1 of this code. (Ord. 96-O-2270, eff. 11-27-1996; amd. Ord. 99-O-2324, eff. 3-19-1999; Ord. 02-O-2411, eff. 11-22-2002)

## **10-3-1959: REFERRAL AND REVOCATION OF PERMITS AND LICENSES:**

A. The director of planning and community development and the director of building and safety shall develop administrative guidelines for addressing complaints and possible violations in connection with transitional use licenses and extended hours permits, and evaluating whether a business is in compliance with the provisions of this article and all other provisions of this code. The guidelines shall include examples of remedies that may be pursued by the city in response to violations of this article or other provisions of this code. The remedies will be available as alternatives to referral of transitional use licenses or extended hours permits to the planning commission for consideration of revocation of the license or permit. Such guidelines may be amended by the directors at the directors' discretion. Without regard to whether the city has pursued alternative remedies, if the director of planning and community development or the director of building and safety believes that a business may not be in compliance with the provisions of this article or any other provision of this code, the director of planning and community development may refer the transitional use license or extended hours permit to the planning commission to consider revocation or conditioning the license or permit to ensure that the permitted activity operates in compliance with the provisions of this article and all other city laws.

B. In the event that a transitional use license or extended hours permit is referred to the planning commission, the planning commission shall hold a public hearing regarding the possible revocation of the license or permit or the possible imposition of conditions to ensure compliance by the licensee or permittee with the provisions of this article and all other applicable city laws for which the licensee or permittee is found in violation. Notice of such hearing shall be provided as set forth in subsection C of this section. The planning commission, after such hearing, may revoke the transitional use license or extended hours permit if the commission determines that:

1. The permittee has violated a condition of the license or permit previously imposed pursuant to this section, or violated any provision of this code that governs the permitted activity; or
2. Misstatements or omissions of material facts were used in the acquisition of a transitional use license or extended hours permit.

In addition, should the planning commission find that the permittee is in violation of any provision of this article or other city law governing the permitted activity, the commission may allow the transitional use license or extended hours permit to remain in force, subject to conditions to correct and prevent a recurrence of said violation and to protect the peace and quiet of the adjacent neighborhood. In doing so, the planning commission may require all future license and permit approvals for the subject business to be subject to the same conditions.

C. At least ten (10) days prior to any hearing by the planning commission, notice of the time, place, and purpose of the public hearing shall be sent by first class mail to each owner and occupant of property in a single-family residential zone within a distance of five

hundred feet (500') of the exterior boundaries of the subject property, and to each owner and residential tenant of property within a multiple-family residential or nonresidential zone within three hundred feet (300') of the exterior boundaries of the subject property. Such notice shall be sent to the property owners whose names and addresses appear on the latest equalized county assessment roll.

- D. The applicant or any person aggrieved by a decision of the planning commission pursuant to this article may appeal the decision to the city council as provided in title 1, chapter 4, article 1 of this code. (Ord. 96-O-2270, eff. 11-27-1996)

### **10-3-1960: VIOLATIONS AND REMEDIES:**

- A. The operation of a business in violation of this article is a nuisance. Each person violating this article is subject to all remedies allowed by law. (Ord. 11-O-2615, eff. 12-16-2011)

## Article 35. Open Air Dining

### 10-3-3501: OPEN AIR DINING PERMITS:

- A. No open air dining use shall be established in the public right of way or on private property unless an open air dining permit is approved pursuant to this article.
- B. Parking shall be provided for all open air dining uses pursuant to the provisions of section 10-3-2730 of this chapter.
- C. An application for an open air dining permit shall be filed with the planning and community development department in a form prescribed by that department.
- D. If approved, an open air dining permit shall be valid for a period of five (5) years and may be renewed for one additional five (5) year period on the same terms and conditions as set forth in the original approval.
- E. The city council may establish by resolution fees for the review of such applications. (Ord. 11-O-2615, eff. 12-16-2011)

### 10-3-3502: OPEN AIR DINING IN THE PUBLIC RIGHT OF WAY; REQUIREMENTS:

- A. Any open air dining area proposed to be located in the public right of way shall comply with all of the following requirements:
  - 1. A minimum distance of not less than a five foot (5') wide pedestrian travel aisle shall be maintained on the public right of way at all times; to assure the required pedestrian travel aisle, all open air dining areas shall be set back a minimum of five feet (5') from the edge of the curb and any fixed sidewalk obstruction including, without limitation, curb lines, tree wells, street trees, parking meters, water hydrants, light poles, utility equipment boxes, newspaper racks and bus benches.

2. Umbrellas located in the open air dining area shall have a minimum seven foot (7') clearance from the ground to the lowest element of the umbrella and shall be located completely within the open air dining areas permitted boundaries.
  3. Portable heaters shall be located a minimum of three feet (3') from any combustible material and shall be located completely within the open air dining areas permitted boundaries.
  4. Unless a permanent structure is approved pursuant to the permit, all fixtures and furniture used in an open air dining area shall be removed from the public right of way and stored out of public view during nonbusiness hours. At the discretion of the reviewing authority, open air dining areas with more than twelve (12) chairs may be required to provide a permanent barrier delineating the usable open air dining area from the remaining area of the public right of way.
  5. Areas used for outdoor dining shall not extend beyond the building frontage for the associated restaurant space.
  6. The material and design of the furniture and barrier, if any, shall be reviewed and approved pursuant to section 10-3-3007 of this chapter prior to installation.
  7. An encroachment permit allowing establishment of an open air dining area must be obtained from the public works department in a form satisfactory to the city attorney.
  8. Areas used for open air dining in the public right of way shall comply with all applicable provisions of the building code, including, but not limited to, maintaining proper building egress and ingress at all times, observing maximum seating capacities, providing proper circulation, and providing appropriate access to persons with disabilities.
- B. An annual rental fee shall be imposed on the use or operation of open air dining areas located in the public right of way. The rental fee schedule shall be set by resolution of the city council. In the event that a permit is suspended pursuant to section 10-3-3509 of this chapter, rental fees shall not be required to be paid during the period of suspension. (Ord. 11-O-2615, eff. 12-16-2011)

### **10-3-3503: REVIEWING AUTHORITY:**

- A. Unless otherwise specified, the reviewing authority for an open air dining permit shall be the director of community development. If, in the opinion of the director, an application merits review by the planning commission, the director may refer such application to the planning commission and the planning commission shall serve as the reviewing authority and shall conduct a noticed public hearing regarding the request.

- B. The reviewing authority for an open air dining permit for an open air dining area serving more than twelve (12) persons located on private property within one hundred seventy feet (170') of an R-1 or R-4 zone shall be the planning commission.
- C. A public hearing shall be held by the planning commission on all applications for which it is the reviewing authority. In addition to the notice requirements pursuant to section 10-3-3504 of this chapter, at least ten (10) days prior to such hearing, notice of the time, place and purpose of the public hearing shall be sent by first class mail to each owner of property in a residential zone within a distance of five hundred feet (500') of the exterior boundaries of the subject property and to each owner of property in any other zone within three hundred feet (300') of the exterior boundaries of the subject property. Such notice shall be sent to the property owners whose names and addresses appear on the last equalized county assessment roll.
- D. Notwithstanding the provisions of this section, if the application for an open air dining permit accompanies an application for any other type of discretionary approval from the planning commission or city council for the same site area, the planning commission or city council, as appropriate, shall be the reviewing authority for the application and shall conduct a noticed public hearing regarding the request. (Ord. 11-O-2615, eff. 12-16-2011)

### **10-3-3504: NOTICE:**

Notices in connection with the open air dining permit approval process shall be provided in accordance with section 10-3-3602 of this chapter. (Ord. 11-O-2615, eff. 12-16-2011)

### **10-3-3505: STANDARD OF REVIEW:**

The reviewing authority shall approve an open air dining permit application if all of the following findings can be made:

- A. The proposed open air dining use is consistent with the general plan and any specific plans adopted for the area.

- B. The proposed open air dining use will not adversely affect existing and anticipated development in the vicinity and will promote the harmonious development of the area.
- C. The nature, configuration, location, density, and manner of operation of any open air dining use proposed will not significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property.
- D. The proposed open air dining use will not create any significant traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards and will not impede the safe and orderly flow of pedestrians along the public right of way.
- E. The proposed open air dining use will not create any significantly adverse parking impacts as a result of employee or patron parking demands.
- F. The proposed open air dining use will not create any significantly adverse impacts on neighboring properties as a result of:
  - 1. The accumulation of garbage, trash or other waste;
  - 2. Noise created by operation of the restaurant or by employees or visitors entering or exiting the restaurant;
  - 3. Light and glare; or
  - 4. Odors and noxious fumes.
- G. The proposed open air dining use will not be detrimental to the public health, safety, or general welfare. (Ord. 11-O-2615, eff. 12-16-2011)

### **10-3-3506: OPEN AIR DINING PERMIT; CONDITIONS:**

In approving an open air dining permit, the reviewing authority may impose such conditions as may be reasonably necessary to protect the public health, safety and general welfare, and to ensure that the proposed open air dining use is established and conducted in a manner which is consistent with this article and the development standards for the underlying commercial zone. The conditions imposed by the reviewing authority may include, but shall not be limited to:

- A. The appropriate setback for the proposed open air dining use;
- B. Pedestrian access and safety;
- C. Parking requirements;
- D. Barrier requirements;
- E. The time limit on the permit. (Ord. 11-O-2615, eff. 12-16-2011)

### **10-3-3507: BONDING AND INSURANCE:**

Upon issuance pursuant to this article of an open air dining permit for a dining area in the public right of way, the permittee shall post and at all times while the permit is in existence, maintain a security bond and insurance.

- A. The amount and form of the bond shall be designated by the reviewing authority at the time of approval of the open air dining permit, and shall be in an amount which is determined to be sufficient for removal of the open air dining area in the event the permittee fails to comply with the conditions of the permit. The form and content of the bond shall be satisfactory to the city attorney. The bond may be waived where it is determined that the potential for any injury to the city from the existence of the open air dining area is minimal. Any security bond required by this section may be cash, or cash equivalent security approved by the city attorney and the risk manager, or a bond in accordance with title 3, chapter 4 of this code.
- B. The amount of insurance shall be designated by the city risk manager at the time of approval of the open air dining permit, and shall be in an amount which is determined to be sufficient to adequately protect the city, persons, and property from injuries or damages which may be caused by the use or operation of the open air dining area authorized by the permit. Insurance which is required under this section shall comply with the provisions of title 3, chapter 4 of this code. (Ord. 11-O-2615, eff. 12-16-2011)

**10-3-3508: DECISION AND APPEALS:**

The applicant or any person aggrieved by any decision of the planning commission regarding an open air dining permit may appeal the decision to the city council in the manner provided by title 1, chapter 4, article 1 of this code. Any decision of the director pursuant to this article may be appealed to the planning commission in a manner consistent with the procedures set forth in title 1, chapter 4, article 1 of this code. (Ord. 11-O-2615, eff. 12-16-2011)

**10-3-3509: SUSPENSION AND REVOCATION OF OPEN AIR DINING PERMIT:**

If the director of community development, with the advice of the city engineer, determines that evidence could be presented to the planning commission which may support grounds for revocation or suspension of an open air dining permit, and the director believes that the planning commission may find that such evidence is adequate to support revocation or suspension, then the director may initiate a revocation or suspension proceeding before the planning commission.

Upon initiation of a revocation or suspension proceeding, the planning commission shall hold a public hearing regarding the possible revocation or modification of the open air dining permit. Notice of such hearing shall be provided in the same manner as the notice required for issuance of the original permit. The planning commission, after such hearing, may revoke or suspend the open air dining permit if the commission determines that:

## Attachment A

### DRAFT FINDINGS

#### Development Plan Review Permit

1. *The proposed plan is consistent with the general plan and any specific plans adopted for the area;*
2. *The proposed plan will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area;*
3. *The nature, configuration, location, density, height and manner of any commercial development proposed by the plan will not significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property;*
4. *The proposed plan will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards; and,*
5. *The proposed plan will not be detrimental to the public health, safety, or general welfare, and will not result in:*
  - a. *Any significantly adverse parking impacts as a result of employee or patron parking demand;*
  - b. *Any significantly adverse impacts on neighboring properties as a result of the accumulation of garbage, trash, or other waste;*
  - c. *Any significantly adverse impacts on neighboring properties as a result of noise created by the operation of the restaurant or by employees or visitors entering or existing the restaurant;*
  - d. *Any significantly adverse impacts on neighboring properties as a result of light and glare; and*
  - e. *Any significantly adverse impacts on neighboring properties as a result of odors or noxious fumes.*

#### Extended Hours Permit

The extended hours operation will not substantially disrupt the peace, and quiet of the adjacent neighborhood as a result of any of the following:

1. *The accumulation of garbage, litter, or other waste, both on and off the subject site;*
2. *Noise created by the extended hours operation or by employees or visitors entering or exiting the extended hours operation;*

3. *Light and glare;*
4. *Odors and noxious fumes;*
5. *Pedestrian queuing;*
6. *Crime or peril to personal safety and security;*
7. *Use of residential streets for parking which is likely to cause activity associated with the subject extended hours operation to intrude substantially into a residential area;*
8. *Effects on traffic volumes and congestion on local residential streets; and*
9. *Cumulative impacts relating to the existing concentration of extended hours operations in the vicinity of the proposed extended hours operation.*

**ATTACHMENT B**

**PC Resolution No. 1124, Adopted 2/23/00 (DPR)**

RESOLUTION NO. 1124

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY ISSUING A DEVELOPMENT PLAN REVIEW PERMIT TO ALLOW OPEN AIR DINING AND CONDITIONALLY ISSUING AN EXTENDED HOURS PERMIT AT PROPERTY LOCATED AT 14 NORTH LA CIENEGA BOULEVARD (TEMPLE RESTAURANT)

Section 1. Jun Kim, on behalf of Naylor Properties, Inc. (hereafter "applicant"), has submitted an application for a Development Plan Review Permit to permit open air dining at property located at 14 North La Cienega Boulevard (Temple Restaurant) (hereafter "project"). Pursuant to Beverly Hills Municipal Code Section 10-3.3503, the applicant must obtain a Development Plan Review Permit to operate more than two tables of open air dining on a site within 170 feet of a single family residential zone. The applicant has requested thirteen (13) tables and seating for up to forty-two (42) persons in an existing 1,296 square foot area located entirely on private property. Additionally, the applicant has requested a waiver of the requirement for 29 parking spaces to serve the open air dining area.

The applicant has also applied for an Extended Hours Permit to allow the restaurant to receive patrons after 10 p.m. Pursuant to Beverly Hills Municipal Code Section 10-3.1958(c), the Planning Commission may grant an Extended Hours Permit if it finds that the extended hours operation will not substantially disrupt the peace and quiet of the adjacent neighborhood.

Section 2. The proposal has been environmentally reviewed and a Categorical Exemption has been issued in accordance with the requirements of the California Environmental Quality Act (CEQA) and the City's environmental guidelines.

Section 3. On January 26, 2000, the Planning Commission held a duly noticed public hearing to consider the application. Evidence, both written and oral, was presented at said hearing.

Section 4. In considering the application for the Development Plan Review Permit, the Planning Commission considered the following issues:

1. Whether the proposed plan is consistent with the General Plan and any specific plans adopted for the area;
2. Whether the proposed plan will adversely affect existing and anticipated development in the vicinity and will promote the harmonious development of the area;
3. Whether the proposed plan will create any significantly adverse traffic impacts, traffic safety hazards, pedestrian vehicle conflicts or pedestrian safety hazards;
4. Whether the proposed plan will be detrimental to the public health, safety or general welfare; and
5. Whether the nature, configuration, location, density, height and manner of operation of the commercial development proposed by the plans will significantly interfere

with the use and enjoyment of residential properties in the vicinity of the subject property.

6. Whether the proposed plan will create any significantly adverse parking impacts as a result of employee or patron parking demand.

7. Whether the proposed plan will significantly and adversely affect neighboring properties due to:

- a. The accumulation of garbage, trash or other waste;
- b. Noise created by operation of the dining area or by employees or visitors entering or exiting the site;
- c. Light and glare;
- d. Odors or noxious fumes.

Section 5. Based upon the evidence presented, including the staff report and oral testimony, the Planning Commission hereby finds:

1. The proposed project is consistent with the General Plan of the City. The General Plan designates the property for commercial uses and is consistent with the existing concentration of restaurants along this block of La Cienega known as "Restaurant Row."

2. As conditioned, the proposed project will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts or pedestrian safety hazards. Nor will the proposed project have significant parking impacts as a result of patron or employee parking demand. The proposed project will allow thirteen (13) tables with seating for forty-two (42) persons, thus providing seating for slightly fewer

persons than the previous restaurant which operated at this location without adverse traffic or parking impacts for over 30 years. Parking for patrons and employees is provided along La Cienega Boulevard and on the adjacent bank parking lot during nonbusiness hours. However, in order to avoid potential parking impacts, the applicant will provide the Director of Transportation with proof of free employee parking a reasonable distance from the restaurant prior to issuance of the Certificate of Occupancy. To further reduce potential impacts, after 6 p.m., the applicant will provide sufficient valet parking to accommodate patron demand and to reduce the likelihood that vehicles will not seek parking in the residential area.

In light of the project site's reduced intensity of use (it will now be open 9.5 hours per day, instead of 24 hours per day) and its above-described availability of parking, the project will not create any significantly adverse traffic impacts, traffic safety hazards, pedestrian-vehicle conflicts, pedestrian safety hazards, or parking impacts.

3. As conditioned, the proposed project will not adversely affect existing and anticipated development in the vicinity, will promote harmonious development of the area and will not be detrimental to the public health, safety and welfare. The proposed open air dining will be located on the south side of the restaurant. To minimize impacts to the adjacent residential area to the east, the outdoor dining area will be enclosed by a wall of sufficient height to block any sight line views from adjacent residential properties, and patron seating will not be

permitted after 11:00 p.m daily. The reduction in operations at this site from 24 hours to 9.5 hours per day also will decrease the project's impacts on noise, light and glare and odors and noxious fumes. Finally, the proposed project is compatible with surrounding developments because it will provide an open air dining facility to be used by residents and tenants of the surrounding commercial uses.

4. As conditioned, the nature, configuration, location, density, height and manner of operation of the proposed project will not significantly interfere with the use and enjoyment of residential properties in the vicinity of the subject property because of the reasons stated above, in paragraph 3. Therefore, the project will not interfere with the enjoyment of residential properties in the vicinity of the project.

5. As conditioned, the proposed project will not significantly and adversely affect neighboring properties due to the accumulation of garbage, trash or other waste, noise created by operation of the dining area or by employees or visitors entering or exiting the site, or odors or noxious fumes. The applicant is required to maintain the subject area in a clean and sanitary condition. All trash shall be placed in containers, and restaurant trash shall be picked up daily. Deposit of trash shall comply with the City's Commercial-Transitions ordinance.

6. Due to the nature of the project and the orientation of the project towards La Cienega Blvd., no light, glare or noise (from employees or otherwise) from the project

will significantly impact neighboring properties. The project will face away from residential areas and will be screened from residential areas by a wall of sufficient height to block sight lines from adjacent residential properties.

Section 6. The Planning Commission may establish parking requirements for an open air dining use that are different than those otherwise required by the Beverly Hills Municipal Code if the Commission determines that the open air dining use will generate a need for parking different than the amount of parking required by the Municipal Code or the Commission determines that the parking demand will be met by means other than those specified in the Municipal Code. In this case, the need for parking will be met by means other than those specified in the Municipal Code. Parking is provided in 26 spaces in the California Federal Bank Building parking lot after banking hours and on weekends. Public parking is also provided by 57 metered parking spaces along the east and west sides of La Cienega Boulevard, between Wilshire Boulevard and Clifton Way. In addition, after 6 p.m. the applicant will provide sufficient valet parking to accommodate patron demand. Finally, the history of outdoor dining at the project site has demonstrated that parking needs have been met through means other than those specified in the Municipal Code.

Section 7. In considering the application for the extended hours permit, the Planning Commission considered whether

the extended hours operation will substantially disrupt the peace and quiet of the adjacent neighborhood as a result of any of the following:

(1) the accumulation of garbage, litter or other waste, both on and off of the project site;

(2) noise created by the extended hours operation or by employees or visitors entering or exiting the extended hours operation;

(3) light and glare;

(4) odors and noxious fumes;

(5) pedestrian queuing;

(6) crime or peril to personal safety and security;

(7) use of residential streets for parking which is likely to cause activity associated with the extended hours operation to intrude substantially into a residential area;

(8) the effects on traffic volumes and congestion on local residential streets; and

(9) the cumulative impacts relating to the existing concentration of extended hours operations in the vicinity of the proposed extended hours operation.

Section 8. Based upon the entire record in this matter, including the staff reports, the Planning Commission finds as follows:

The extended hours operation, as conditioned, will not substantially disrupt the peace and quiet of the adjacent neighborhood. Parking for patrons and employees is provided

along La Cienega Boulevard and on the adjacent bank parking lot during nonbusiness hours. However, in order to avoid potential parking impacts on residential properties, the applicant will provide the Director of Planning & Community Development with proof of free employee parking a reasonable distance from the restaurant prior to issuance of the Certificate of Occupancy. To further reduce potential impacts, after 6 p.m., the applicant will provide sufficient valet parking to accommodate patron demand and ensure that vehicles will not seek parking in the residential area.

The extended hours are not expected to generate substantial additional waste and it is anticipated that the trash area and collection will be sufficient to prevent an accumulation of trash. Given these conditions concerning waste management and the relatively small size of the business, there is no significant danger of waste accumulation, odors or noxious fumes created by the extended hours operation.

The extended hours operation will not create any significant light or glare impacts for the neighboring residential areas. A wall will be constructed of sufficient height to block sight lines of adjacent properties. The reduction of the site's operating hours from 24 hours per day to 9.5 hours will reduce impacts of noise, light and odors to adjacent residential properties. In addition, the extended hours operation will not create any significant noise impacts for the neighboring residential areas because of the restaurant's

entrance and orientation towards La Cienega Boulevard and because of its reduced hours of operation.

The proposed project will not create any pedestrian queuing, nor will the operation of the project cause any threats of security to residents in the vicinity.

The continued operation of a restaurant in this location will not provide any additional cumulative impact on residential properties, and its reduced hours of operation will reduce any impacts on adjacent residential properties.

Section 10. Based upon the foregoing, the Planning Commission hereby issues a Development Plan Review Permit for open air dining, waives the parking required for open air dining and issues an Extended Hours Permit for Temple Restaurant, subject to the following conditions:

1. Except as otherwise provided by these conditions, the Project shall be constructed and operated in substantial compliance with the plans submitted to and approved by the Planning Commission at its meetings of January 26, 2000.
2. A valet operation for the evening operating hours of the restaurant (after 6:00 p.m.) shall be provided, pursuant to the requirements of the Department of Transportation and in a manner satisfactory to the Director of Transportation.
3. The applicant shall provide proof of free employee parking located within a reasonable distance from the restaurant to the satisfaction of the Director of Transportation, prior to

issuance of the Certificate of Occupancy, and shall require all persons working for or at the project site, as a condition of employment or hire, and as a condition of this approval, to park in such location while present at the project site. In the event that persons working at the project are failing to utilize the required employee parking site as required by this condition, applicant shall take all reasonable steps requested by the Director of Transportation necessary to enforce the terms of this condition. Such steps shall be in addition to any other remedies available to City for violation of this resolution or the Beverly Hills Municipal Code.

4. The rear wall enclosure of the open air dining area shall be of a sufficient height to screen any sight line views from the adjacent apartment building to the east.

5. The restaurant may receive patrons up to and including 11:00 p.m. seven days a week. The restaurant shall not receive patrons at any time after the foregoing time. Patrons shall not be permitted to sit in the open air dining area after 11:00 p.m. Additionally, the Planning Commission reserves the power and right to impose additional conditions upon this approval and/or to further restrict the operating hours of the outdoor dining or the restaurant if the Commission determines after a noticed public hearing that the restaurant is being operated in a manner that interferes with the quiet enjoyment of nearby residential properties and that the existing conditions of approval are inadequate to halt the interference.

6. The open air dining shall be limited to thirteen (13) tables and forty-two (42) chairs.

7. All recyclable containers, including glass bottles, shall be placed in bags prior to disposal into the recyclable bin to minimize noise and odors.

8. The applicant shall maintain the subject area in a clean and sanitary condition, including emptying trash receptacles and sweeping the ground regularly.

9. The applicant shall operate the open air dining area in a manner that meets all requirements of the Health Department of Los Angeles County.

10. The applicant shall provide sufficient valet parking attendants to accommodate patron demand and ensure that vehicles will not queue on the street except in loading areas designated as a valet parking zone.

11. All rear lighting shall be shielded and oriented so that it does not illuminate an area beyond the bounds of the project site.

12. These conditions of approval shall run with the land and shall remain in force for the duration of the life of the project. This Development Plan Review Permit and Extended Hours Permit shall not become effective until the applicant and the landowner of the project site sign a covenant, satisfactory to the City Attorney, accepting these conditions of approval. The covenant shall be recorded in the office of the Los Angeles County Recorder.

This resolution shall be attached as an exhibit to the covenant.

At the time that the applicant delivers the covenant to the City, the applicant shall also provide the City with all fees necessary to record the document with the County Recorder.

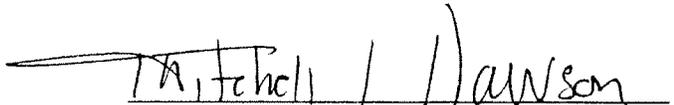
13. A cash deposit of \$5,000 shall be deposited with the City to ensure compliance with the City's requirements regarding construction activities. Such deposit shall be returned to applicant upon completion of all construction activities and in the event that no more than two violations of such conditions or the Beverly Hills Municipal Code occur. In the event that three or more such violations occur, the City may: (a) retain the deposit to cover costs of enforcement; (b) notify the applicant that the applicant may request a hearing before the City within ten days of the notice; and (c) issue a stop work notice until such time that an additional deposit of \$10,000 is deposited with the City to cover the costs associated with subsequent violations. Work shall not resume for a minimum of two days after the day that the additional deposit is received by the City. If the applicant timely requests a hearing, said deposit will not be forfeited until after such time that the applicant has been provided an opportunity to appear and offer evidence to the City, and the City determines that substantial evidence supports forfeiture. Any subsequent violation will trigger forfeiture of the additional deposit, the issuance of a stop work notice, and the deposit of an additional \$10,000, pursuant to the procedure set forth hereinabove. All amounts

deposited with the City shall be deposited in an interest bearing account. Applicant shall be reimbursed all interest accruing on monies deposited.

The requirements of this condition no. 15 are in addition to any other remedy that the City may have in law or equity and shall not be the sole remedy of the City in the event of a violation of the conditions of this resolution or the Beverly Hills Municipal Code.

Section 11. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and her certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: February 23, 2000

  
MITCHELL J. DAWSON  
Chairman of the Planning  
Commission of the City of  
Beverly Hills, California

ATTEST:

  
Secretary DC

Approved as to form:

  
David R. Daniels  
Assistant City Attorney

[Signatures continued]

Approved as to content:

  
Ruth Nadel DC  
Director of Planning &  
Community Development

2/18/00

Maria Rychlicki  
Maria Rychlicki  
Director of Transportation

**ATTACHMENT C**

**June 5, 2013 letter from City Prosecutor**

**DAPEER ROSENBLIT LITVAK LLP**  
**L A W Y E R S**

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KENNETH B. DAPEER  
WILLIAM LITVAK  
JAMES C. ECKART  
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June 5, 2013

Lonnie Todd Moore [Owner]  
Adolfo Alejandro Suaya [Owner and ABC Licensee, No. 526546]  
Ryan Sweeney [Owner]  
Mike Malin [Owner]  
Brandon Bradford [Owner]  
Alan Aivazian [Owner]  
c/o Attorney Michael Gonzales  
555 West 5<sup>th</sup> Street, 31<sup>st</sup> Floor  
Los Angeles, CA 90013

[Copy Via Email to Michael Gonzales: [mgonzales@gonzaleslawgroup.com](mailto:mgonzales@gonzaleslawgroup.com)]  
[Copy Via Fax to Michael Gonzales: (213) 996-8359]

Re: Notice of Unsafe Building; Municipal Code Violations  
The Phoenix Restaurant Los Angeles  
14 N. La Cienega Blvd., Beverly Hills / City Case No. CE1302412

Gentlemen:

This office represents the city of Beverly Hills ("City") as code enforcement attorneys and prosecutors.

You are successful restaurant operators as claimed in your website for The Dolce Group - [www.dolcegroup.com](http://www.dolcegroup.com), wherein you state: "The Dolce Group is a Los Angeles-based restaurant and nightlife team that ranks among the leading hospitality groups in the country." Appendix 1 to this letter contains the "About Us" portion of the website that further supports your claim. Appendix 2 to this letter contains an excerpt from your website - [www.thephoenixla.com](http://www.thephoenixla.com), wherein you promote The Phoenix Los Angeles.

Regulations in the Beverly Hills Municipal Code ("BHMC") are intended to protect public health, safety and welfare. You have disregarded your legal responsibilities by starting business operations on October 3, 2012 without first ensuring you were in full compliance with the BHMC. The fact that you are highly experienced restaurant operators makes the violations discussed below even more inexcusable. It is also relevant to note Mr. Suaya has owned/controlled this property since June 23, 2003 (initially in his own name and then as a principal of Sweetzer Plaza, Inc.) and is thus very familiar with the BHMC.

Lonnie Todd Moore [Owner]  
Adolfo Alejandro Suaya [Owner]  
Ryan Sweeney [Owner]  
Mike Malin [Owner]  
Brandon Bradford [Owner]  
Alan Aivazian [Owner]  
The Phoenix Los Angeles

Re: Notice of Unsafe Building; Municipal Code Violations  
14 N. La Cienega Blvd., Beverly Hills / City Case No. CE1302412

June 5, 2013

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The City has had numerous oral and code enforcement communications with you or your representatives over the last six months. Copies of prior City notices are set forth in Appendix 3. You have failed to correct all of the violations therein. On May 30, 2013 at 4:00 p.m. City officials and I met with Michael Gonzales, your attorney and your other representatives (collectively your "Agents") at the premises to conduct a consensual site inspection. Additional violations of the BHMC were identified as hereafter discussed. Senior Building Inspector Randy Miller explained them in detail to your Agents. If you require more information about the violations than your Agents can provide, please engage qualified consultants and design professional to assist you.

**Violation No. 1: Failure to Obtain an Occupant Load.**

You were required by Section 1004 of the Beverly Hills Building Code to complete all requirements for the City to approve an occupant load prior to you starting business operations. An approved load is tied to approved means of egress facilities, which would ensure your patrons and employees could safely evacuate the building in the event of a fire or explosion. You have endangered public safety by violating Section 1004.1. This violation continues despite City notices to you on December 5, 2012 and February 11, 2013 that referenced the occupant load (see notices in Appendix 3).

You are in violation of an additional life-safety regulation in Section 1004.3 of the Beverly Hills Building Code, which states as follows:

"Every room or space that is an assembly occupancy shall have the occupant load of the room or space posted in a conspicuous place, near the main exit or exit access doorway from the room or space. Posted signs shall be of an approved legible permanent sign and shall be maintained by the owner or authorized agent."

**Violation No. 2: Fire Code Violation - Prohibited Obstructions.**

You previously removed outdoor dining furniture in the front of the restaurant in response to Senior Building Inspector Miller's February 11, 2013 Correction Notice (see Appendix 3), with assurances to the City that such obstructions would not recur. You placed tables in that area again on May 29, 2013, thereby endangering public safety. Chairs were noted in that area on June 1, 2013. Photos of those obstructions are as follows:

Lonnie Todd Moore [Owner]  
Adolfo Alejandro Suaya [Owner]  
Ryan Sweeney [Owner]  
Mike Malin [Owner]  
Brandon Bradford [Owner]  
Alan Aivazian [Owner]  
The Phoenix Los Angeles

Re: Notice of Unsafe Building; Municipal Code Violations  
14 N. La Cienega Blvd., Beverly Hills / City Case No. CE1302412

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Page 3



Lonnie Todd Moore [Owner]  
Adolfo Alejandro Suaya [Owner]  
Ryan Sweeney [Owner]  
Mike Malin [Owner]  
Brandon Bradford [Owner]  
Alan Aivazian [Owner]  
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14 N. La Cienega Blvd., Beverly Hills / City Case No. CE1302412

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On May 30, 2013, Agent Gonzales assured Senior Building Inspector Miller that the handicap ramp area, which is part of your exit discharge system, would remain free of obstructions at all times. Nevertheless, you once again endangered public safety by allowing chairs and benches to be in that area on June 1, 2013 as shown in the following photo:



You have violated the following regulations in the Beverly Hills Fire Code:

Section 110.1:

“Unsafe Conditions. Structures or existing equipment that are ... unsafe or deficient because of inadequate means of egress or which constitute a fire hazard ... shall be deemed an unsafe condition...”

Section 1030.2:

“Reliability. Required exist accesses, exits, or exit discharges shall be continuously maintained free from obstructions or impediments to full

Lonnie Todd Moore [Owner]  
Adolfo Alejandro Suaya [Owner]  
Ryan Sweeney [Owner]  
Mike Malin [Owner]  
Brandon Bradford [Owner]  
Alan Aivazian [Owner]  
The Phoenix Los Angeles

Re: Notice of Unsafe Building; Municipal Code Violations  
14 N. La Cienega Blvd., Beverly Hills / City Case No. CE1302412

June 5, 2013

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instant use in the case of fire or other emergency when the areas served by such exits are occupied.”

Section 1030.3:

“Obstructions. A means of egress shall be free from obstructions that would prevents its use ...”

Section 109.1:

“It shall be unlawful for a *person*, firm or corporation to ... utilize a building, occupancy, premises or system regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.”

**Violation No. 3: Fire Code Violation – Overcrowding.**

The Beverly Hills Fire Code defines “Overcrowding” as follows:

“A condition that exists when either there are more people in a building, structure or portion thereof than have been authorized or posted by the *fire code official*, or when the *fire code official* determines that a threat exists to the safety of the occupants due to *persons sitting and/or standing in locations that may obstruct or impede the use of aisles, passages, corridors, stairways, exits or other components of the means of egress.*”

You created a very dangerous condition on June 1, 2013 by allowing severe overcrowding to occur at your premises. A City official observed that condition and notified the Fire Department. At 11:44 p.m. Fire officials responded and concluded that, due to the number of persons inside your establishment, they would be unable to navigate to the posted exit ways in the event of a fire or explosion. Your manager removed 75 persons from the premises to alleviate the life-safety hazard. Fire Officials also observed approximately 100 persons who were waiting to enter your premises.

The overcrowding incident constitutes violations of Sections 109.1 and 110.1 of the Beverly Hills Fire Code, as recited above.

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**Violation No. 4: Fire Code Violation - Exit Sign Obscured from View.**

You have placed a television in a location that impairs the ability of patrons to view an exit sign in violation of Section 1011.1 of the Beverly Hills Fire Code, which states in part as follows:

*"Exits and exit access doors shall be marked by an approved exit sign readily visible from any direction of egress travel. The path of egress travel to exits and within exits shall be marked by readily visible exit signs to clearly indicate the direction of egress travel in cases where the exit or the path of egress travel is not immediately visible to the occupants."*

**Violation No. 5: Fire Code Violation - Open Flame.**

Ignited candles were observed on June 1, 2013, as shown in the following photograph:



You did not obtain a permit as required by the Beverly Hills Fire Code. The Fire Department would not issue a permit for this open flame condition.

**Violation No. 6: Electrical Hazard.**

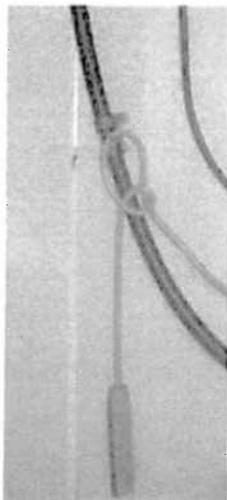
You continue to use an extension cord in place of permanent/safe electrical wiring despite being advised on February 11, 2013 and March 7, 2013 (see correction notices in Appendix 3) to remove all such cords. The May 30, 2013 site inspection nevertheless revealed as follows:

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**Violation No. 7: Health Hazard.**

You facilitate patron smoking in your open air dining area by placing ashtrays on tables. A City official observed several persons smoking on June 1, 2013 in violation of the following regulations in the BHMC:

Section 5-4-2:

“Smoking is prohibited in all open air dining areas located on private or public property, including the public right of way. In addition, smoking is prohibited within five feet (5') of an open air dining area, except while actively passing on the way to another destination...”

Section 5-4-3:

“Any business with an area subject to the prohibition set forth in section 5-4-2 of this chapter shall post or cause to be posted and shall maintain “no smoking” signs in conspicuous locations within said area. All such signs shall be prominently displayed, shall clearly recite the phrase “no smoking” and/or use the international no smoking symbol and shall cite section 5-4-2 of this chapter. Such signs shall be posted not less than five feet (5') nor more than eight feet (8') above floor level and shall be of sufficient number and location to cause the message of the signs to be clearly visible and readable and must be made of

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permanent, weather resistant materials. No person shall willfully mutilate or destroy any sign required by this section..."

**Violation No. 8: Disturbances of the Peace.**

Loud music emanating from speakers in the open air dining area has repeatedly disturbed the peace and quiet of persons residing in nearby apartments during late evening and early morning hours. On each such occasion, you have violated Section 5-1-104 of the BHMC, which states in part as follows:

"... it shall be unlawful for any person to wilfully make or continue, or cause to be made or continued, any loud, unnecessary, excessive, or unusual noise which unreasonably disturbs the peace and quiet or which causes discomfort or annoyance to any reasonable person of normal sensitiveness."

Disturbances to residents would be exacerbated if a DJ were performing at your premises, as suggested by the following flier:



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Section 10-3-2703 C. of the BHMC states in part as follows:

“Notwithstanding any other provision of this code, prerecorded music may be played inside an establishment outside the business triangle during any hours the establishment is lawfully operating, provided the volume levels conform to the noise level standards set forth in subsection B7 of this section.”

Outdoor speakers and televisions are not permissible.

**Violation No. 9: Administrative Code Violations / Unpermitted Alterations and Installations.**

You have violated the following regulations in the BHMC because of your unpermitted work and installations inside your establishment, as explained to your Agents on May 30, 2013:

Section 301.1 of the Beverly Hills Uniform Administrative Code<sup>1</sup> (“UAC”) which states in part as follows:

“Permits Required. ... no building, structure or building service equipment regulated by this code and the technical codes shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate, appropriate permit for each building, structure or building service equipment has first been obtained from the director of building and safety.”

Section 305.1 of the UAC, which states in part as follows:

“Construction or work for which a permit is required shall be subject to inspection by the building official and the construction work shall remain accessible and exposed for inspection purposes until approved by the building official...”

Section 205 of the UAC, which states in part as follows:

“It shall be unlawful for a person ... to erect, construct, enlarge, alter, repair, move, improve, remove ... demolish, equip, use, occupy or maintain any building, structure or building service equipment, or cause

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<sup>1</sup> As adopted and amended by Title 9, Chapter 1, Article 1 of the BHMC.

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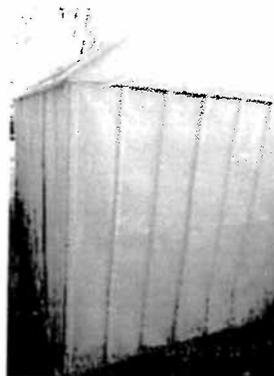
or permit the same to be done in violation of this code and the technical codes.”

Section 1-3-101 A. of the BHMC, which states in part, as follows:

“No person shall violate or fail to comply with any provision or requirement of this code. Any person who shall violate or fail to comply with any provision or requirement of this code, or a condition of any permit issued pursuant to this code, shall be guilty of a misdemeanor....”

**Violation No. 10: Administrative Code Violations / Unpermitted Structures and Obstruction to Egress.**

Senior Inspector Miller has asked you on several occasions to address the violations that pertain to the following structures at the rear of your premises:



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Those structures lack building and electrical permits, as well as final inspection approvals in violation of the UAC. The shed impairs egress from the structure. On May 30, 2013, Agent Gonzales agreed as follows on your behalf:

- The shed would be removed from the premises by June 6, 2013.
- The metal container/office would be removed from the premises by June 13, 2013 if you did not obtain all required approvals and permits from the Building & Safety Division and the Planning Division for it by that date.

**Violation No. 11: Zoning Code Violations / Activities without an Extended Hours Permit.**

You sold drinks to a City official and to other persons who entered your premises after 11:00 p.m. on May 11, 2013 and June 1, 2013 in violation of Resolution No. 1124, Section 10, Condition No. 5, which states in part as follows:

"The restaurant may receive patrons up to and including 11:00 p.m. seven days a week. The restaurant shall not receive patrons at any time after the foregoing time."

You seated patrons in the open air dining area of your premises (including a City official) after 11:00 p.m. on May 13, 2013 and June 1, 2013 in violation of Condition No. 5, which further as follows:

"Patrons shall not be permitted to sit in the open air dining area after 11:00 p.m."

Resolution No. 1124 did not authorize the foregoing extended hours activities. They are therefore prohibited pursuant to Section 10-3-1958 A. of the BHMC, which states in part as follows:

"... it shall be unlawful for any person to commence or conduct, either directly or indirectly, an extended hours operation on a site located in a commercial-residential transition area in the city of Beverly Hills without having procured an extended hours permit pursuant to the provisions of this article..."

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You have incurred criminal liability for unpermitted extended hours operations pursuant to Section 1-3-101 A. of the BHMC, which states in part as follows:

“No person shall violate or fail to comply with any provision or requirement of this code. Any person who shall violate or fail to comply with any provision or requirement of this code, or a condition of any permit issued pursuant to this code, shall be guilty of a misdemeanor....”

Please take notice the Director of Community Development is reviewing the violations discussed in this letter pursuant to Section 10-3-1959 A. of the BHMC, which states in part as follows:

“... if the director of planning and community development or the director of building and safety believes that a business may not be in compliance with the provisions of this article or any other provision of this code, the director of planning and community development may refer the transitional use license or extended hours permit to the planning commission to consider revocation or conditioning the license or permit to ensure that the permitted activity operates in compliance with the provisions of this article and all other city laws.”

**Violation No. 12: Zoning Code Violation / Transitional Use License**

On April 16, 2013 Lonnie Moore signed a Transitional Use License in disregard of the following provision: “I declare that the subject business has no uncured violations of the Beverly Hills Municipal Code.” On that date, you were operating without an approved occupant load (see Violation No.: 1) and maintaining unpermitted structures and installations (see Violation Nos.: 9 and 10). You had also failed to obtain Architectural Commission approval for exterior alterations to a structure and new signage (see Violation No.: 13 below).

You have also violated the “General Requirement” (which you agreed to comply with) in your Transitional Use License by repeatedly disturbing the peace (see Violation No. 8). That requirement states in part as follows:

“All businesses in the commercial-residential transition area shall comply with all general noise regulations of the City ... no activity shall be conducted on the premises in a manner which substantially or unreasonably disturbs the peace and quiet of a neighborhood or which

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causes discomfort or annoyance to any reasonable persons of normal sensitivity residing in the area.”<sup>2</sup>

Please take notice your Transitional Use License is under consideration for administrative action pursuant to Section 10-3-1957 of the BHMC, which states in part as follows:

A. ... no commercial activity shall be commenced or conducted in a commercial-residential transitional area without a valid transitional use license and, if applicable, an extended hours permit. The department of finance administration shall issue a transitional use license upon compliance with the following requirements:

1. The applicant agrees in writing that:

c. “In the event that the director of planning and community development has a reasonable basis to believe that the subject business may be in violation of the requirements of this article or any other provision of this code, and that substantial progress is not being made toward the correction of such violation, the director of planning and community development shall have the authority to refer the subject business to the planning commission for revocation of the transitional use license.”

**Violation No. 13: Zoning Code Violation / No Architectural Approval for Exterior Alterations to the Premises.**

Code Enforcement Officer Michael Manoaat issued a compliance order (see Appendix 3) to you on November 1, 2012 concerning unapproved exterior alterations to a structure and new signs. You have nevertheless failed to comply with Section 10-3-3007 of the BHMC, which states in part as follows:

“A. 1. Approval: No building, structure, sign, wall, fence, or landscaping located in any zone other than a single-family (one-family) residential zone shall be erected, constructed, altered, or remodeled unless the elevations and plans for the exterior portions and areas and the interiors of mall areas, as defined in section 10-3-100 of this chapter,

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<sup>2</sup> The “General Requirement” is based on BHMC Section 10-3-1956 A.8 and Subpart (b).

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have first been reviewed and approved by the architectural commission, or by the council on appeal.”

Some of the violations of this zoning regulation are set forth in the following photos:



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You are subject to immediate prosecution for misdemeanor offenses of the BHMC due to the foregoing violations. Whether this office institutes criminal proceedings against you now and/or in the future depends, in part, on your timely compliance with the following requests:

A. Please permanently abate all Fire Code violations as discussed in this letter **by today, June 5, 2013 at 5:00 p.m.**

B. Please tender complete construction plans and fees to the Building & Safety Division ("Division") **by June 7, 2013 at 12:00 p.m.** for all unpermitted changes, modifications and installations to the premises.<sup>3</sup>

C. Please tender a properly dimensioned floor plan that is to scale to the Division **by June 7, 2013 at 12:00 p.m.** for all indoor and outdoor areas of the premises. The floor plan must include:

- All booths, tables, chairs, bar stools and bar counters.
- A detailed payout of the kitchen, the bathrooms, and all other floor areas.
- All circulation and identified egress pathways.

D. Please tender a site plan to the Division **by June 7, 2013 at 12:00 p.m.**, along with a completed "Plan Review/Permit Application" (see attached).

E. Please obtain all required Technical Code permits from the Division for all unpermitted work and installations **by June 7, 2013 at 12:00 p.m.** This request excludes the shed and metal container/office at the rear of the premises, which have their own deadlines (see Violation No. 10).

F. If you do not fully comply with Request Nos. A., B., C., D. and E. above **by June 7, 2013 at 12:00 p.m.**, or if the Division is unable to approve occupancy loads on that date because of your deficient or incomplete submittals, please

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<sup>3</sup> The Division will review those plans while you concurrently obtain all required approvals from the Los Angeles County Health Department. In that regard, Mr. Gonzales indicated your submittal to that department just occurred on May 28, 2013.

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**terminate all operations on June 7, 2013 at 3:00 p.m. and do not allow patrons to enter the premises until you have met those requests.**

G. Please tender a complete application for Architectural Commission approval and fees for all exterior changes to the premises to the Planning Division **by June 7, 2013 at 3:00 p.m.**<sup>4</sup>

H. Please keep all televisions and speakers in the outdoor dining area turned off at all times starting **today, June 5, 2013 at 5:00 p.m.** Please remove them and provide written notice of that fact to the undersigned **by June 10, 2013 at 12:00 p.m.**

I. Please ban smoking in regulated areas starting **today, June 5, 2013 at 5:00 p.m.** and do not place ashtrays in those areas. Install all required signs **by June 6, 2013 at 12:00 p.m.**

J. Please remove all extension cords from your premises by **today, June 5, 2013 at 5:00 p.m.**

K. Please complete all work that is authorized by your Technical Code permits and obtain all required final inspection approvals from the Division **by June 28, 2013 at 12:00 p.m.**

.....

Your ongoing indifference to serious life-safety hazards that you willfully create is reprehensible. If I initiate criminal proceedings in the Los Angeles Superior Court and you are convicted of multiple misdemeanor offenses, I would seek fines/assessments against each of you exceeding \$20,000.00, as well as jail time. I would not dismiss a case if you achieve compliance with the BHMC after I have filed a misdemeanor criminal complaint with the court.

City officials are closely monitoring your premises in order to protect public health, safety and welfare. Any recurrence of a violation will not be tolerated.

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<sup>4</sup> You are expected to meet all future City deadlines for completing this review process and complying with all Architectural Commission findings and conditions.

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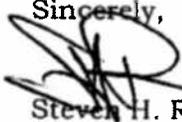
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This letter is not intended to include a discussion of all conditions and activities at these premises that violate the BHMC. You are nevertheless required to immediately abate them.

Sincerely,



Steven H. Rosenblit  
Beverly Hills City Prosecutor

Cc: City Officials

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## APPENDIX 1

### WWW.DOLCEGROUP.COM

#### "ABOUT DOLCE GROUP AND ITS FOUNDERS"

**Lonnie Moore & Mike Malin** fulfilled a lifelong dream to open a bar in 2001 when they opened a small tapas lounge called **Belly** on Los Angeles' Santa Monica Boulevard. Belly was built on equal parts sweat and credit card debt, and soon became a popular industry hangout. Belly reigned as a popular tapas bar and well respected lounge before closing in 2005, with Malin and Moore looking to focus more specifically on the restaurant industry. With the success of Belly, The Dolce Group formed in 2003, opening their first restaurant in West Hollywood, **Dolce Enoteca e Ristorante**. Both Lonnie & Mike, originally from the East Coast, together felt there was a need in the marketplace for an authentic Italian restaurant that was hip and sexy, yet comfortable and consistent in quality service and food. With a slate of celebrity investors (Ashton Kutcher, Wilmer Valderrama, Chris Masterson, Danny Masterson, Laura Prepon, Dule Hill, Jamie Kennedy and more) Dolce served a high profile crowd of tastemakers and foodies alike.

Following Dolce's juggernaut success, The Dolce Group opened **Geisha House** in Hollywood in 2005. Conceptualizing Tokyo 2050, Geisha House is a two-story Japanese fusion and sushi restaurant, anchored by an imaginative Californian take on traditional Japanese cuisine and an incomparable selection of rare sakes. Geisha House continues to draw record crowds night after night, as well as international media attention. In addition, Geisha House was one of the first developments to spearhead a redevelopment boom in Hollywood, proudly serving as the first tenant on a formerly dilapidated strip of Hollywood Boulevard that has since become LA's hottest new dining and nightlife district. With the success of Dolce and Geisha House in Los Angeles, Lonnie & Mike continued scoping Los Angeles real estate to create additional venues in the city. Continuing their efforts in revitalizing Hollywood Blvd, The Dolce Group decided to create a sister restaurant for Dolce, another Italian concept with a neighborhood café feel. **Bella Cucina Italiana** opened in 2006, just down the street from Geisha House, and served Southern Italian Food for lunch and dinner for four years until it was renovated and reconcepted in 2010 to become **Angels and Kings**, a modern and edgy rock and roll bar.

In 2006, The Dolce Group refurbished, revamped and reopened the famed Hollywood haunt, **Les Deux**. Les Deux was a French-themed hideaway lounge in Hollywood that served an ultra-exclusive clientele as one of the most preeminent nightclubs in America from 2006 to 2010. A notorious celebrity playground, it was in many ways the "Studio 54" of the modern era. Also in 2006, the Dolce Group spread their innovation and empire to Atlanta, Georgia. Dolce Enoteca opened within the Atlantic Station development in November, 2006 and brought resurgence to the mid-town area by offering Atlantans a glamorously decorated restaurant serving fine wine and delicious cuisine. Ten Pin Alley, a new concept by the Dolce Group, also opened in Atlanta in February, 2007. TPA is a high-end bowling alley and lounge with a classic, old English feel. In May, 2007, Geisha House opened a second location within the same Atlantic Station development.

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**Ketchup** opened in early March, 2007 in the Sunset Millennium complex on Sunset Blvd in West Hollywood. Ketchup serves an innovative menu in a sleek space, with a modern and sophisticated flair, inspired by classic American diners of the past. Additional Ketchup units opened in Washington DC's National Harbor development in May 2009, Riyadh, Saudi Arabia in March 2010 and Jeddah, Saudi Arabia in July 2012. In April 2009, The Dolce Group opened **Rare 120°**, an exclusive American steakhouse, in The Hard Rock Hotel & Casino in Las Vegas. Diners at Rare 120° enjoy classic steakhouse cuisine, mixed with more modern culinary flair amidst a sleek atmosphere accented with gleaming exotic wood finishes and whimsical design touches. After Rare 120°'s smash success at the Hard Rock, the group was commissioned to open a second restaurant in the hotel's new tower. A new concept full of "small plates and big fun", **Johnny Smalls**, was born in early 2010.

...but the states could not quell our contagious energy and passion for delivering our brand across the globe.

For the last two years, the Dolce Group has been pleasing diners half way around the world. Our famously popular concept Ketchup arose in the bustling city of Riyadh in 2010 then Jeddah in 2012. Yes, you heard right! Ketchup is full steam in Saudi Arabia. The stylish comfort foods of Ketchup have struck taste buds in the east. The growing popularity of our signature brand has gained momentum, growing from our first endeavor and flowering into 3 more Ketchups across Dubai and Turkey. Ketchup Dubai and Ketchup Istanbul will both open in mid-2013. But it's not all globe trekking and parties. The Dolce Group went back to basics for their latest endeavor, **The Phoenix**. A neighborhood bar on steroids, this "everyman's" bar opened in Beverly Hills late 2012 and has been as well received as any former project the guys have ever opened. From the unique selection of craft beer to the plethora of board games to the fun mix of rock and roll oldies the bar plays, this is a neighborhood bar that is here to stay.

The Dolce Group is a company built on original restaurant and nightlife concepts, with a flair for design, taste for fine food, and contagious sense of energy present in all of their venues. The personalities that make up The Dolce Group are dedicated to delivering a unique dining experience in each of their locations, ensuring diners a meal of fine food and wine, fantastic service, and an entertaining evening. The Dolce Group also counsels prospective restaurateurs with a consulting service based on their principles. With plans to open further satellite locations of their most famous outposts and plans for new concepts, The Dolce Group will immerse their signature style into marketplaces all over the country and around the world.

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## APPENDIX 2

### WWW.THEPHOENIXLA.COM

It's the afternoon before night-life impresario and restaurateur Adolfo Suaya's new bar, the Phoenix, is due to open in Beverly Hills, and the 4,000-square-foot space bustles with activity. Suaya walks through the main bar with a silver bowl of salted triple-fried fries, offering them to staff and workmen to evaluate while his partners sit at various tables typing away on their laptops. The scene would be just like any other bar opening, except for the fact that it's happening on La Cienega's restaurant row.

In this sea of upscale restaurant and hotel bars, the Phoenix sticks out like a green olive in a whiskey sour. The place would be perfectly at home in Silver Lake or Echo Park, which is just how Suaya and partners Ryan Sweeney, Brandon Bradford and Alan Aivazian (all of Surly Goat) and Lonnie Moore and Mike Malin (of the Dolce Group) want it.

Inside you'll find a shabby-chic wooden interior, a hodge-podge of flea market decorations and furniture, a pool table, a shuffle board, a list of craft beers curated by Sweeney and a menu of exactly one item (steak frites).

"Adolfo basically picked design elements from all over Southern California," says Moore, who opened the celebrity-backed restaurant Dolce with Suaya eight years ago. "It's really comfortable. The idea is for people to sit for a while, not just for 30 minutes."

Suaya regards his handiwork, which includes an adobe fireplace, whitewashed wooden walls and ceilings, a stage for live music or karaoke, a massive patio and two 20-foot-long bars, and nods with approval.

"It looks like it's been trashed by the weather," he says. "Like a farmhouse in Minnesota."

And like a farmhouse, the Phoenix will be filled with animals (of the party variety) who will have a hard time believing they are getting crazy in Beverly Hills, which despite its many charms has never been known as the place to get jiggy.

"We want to bring fun to Beverly Hills," says Aivazian, who developed the game room. "Come in your pajamas, have a beer and play shuffleboard. No one is too cool for anyone here. Leave your negativity outside."

Inside is the "happy-fun" zone — a zone sponsored by fun's good friend, beer. Right now there are eight craft beers on tap, including AleSmith Speedway Stout, which Sweeney says is one of the most sought-after Imperial stouts and has 12% alcohol by volume. Unlike the 47%, the 99% or the 1%, this is a percentage that brings people together.

It also strips you of self-control so you can order another, or perhaps a cocktail from a smart, fancy-pants-free cocktail list created by mixologist Andrew Kelley, who is focusing on classic

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cocktails like Manhattans, martinis and Sazeracs.

"We don't want to be a whiskey bar, a mixology bar or a beer bar," says Sweeney, who is working on opening a whiskey bar in Pasadena called the Blind Donkey (yes, Sweeney likes to pair adjectives with animals for his bars). "We just want to be a good bar."

That explains why there is only one item on the menu. The Phoenix doesn't want to be a restaurant either. Suaya has been there done that multiple times and he is understandably over it after taking one too many body blows from the sour economy.

"I don't want 21 people in my kitchen," says Suaya, walking into the kitchen where one guy, a chef named Larry Greenwood (BoHo, STK) stands contemplating a secret Dijon sauce. "I've done that before."

Greenwood says he likes to keep things simple too.

"We're doing very few modifications," Greenwood says. "You can only have two temperatures: medium rare or well done. But you can get it with a salad instead of fries if you want."

When you're lost in the fun zone, the \$14.95 steak frites are a real steal. Plus, there are so many areas to eat and drink in at the Phoenix, which adds to the sense of play.

"You can have a different experience based on where you sit yourself," Bradford says. "Each area has its own character. It's a great mixed-use bar space."

As an added bonus, you actually will be able to talk to your date or friends just about anywhere you decide to sit. Too-loud music is on the no-no list at the Phoenix.

"You won't have to yell, 'Where are you from?'" says Lonnie, grinning at Malin. "Mike might actually find a date."

**The Phoenix**

**Where:** 14 N. La Cienega Blvd., Beverly Hills

**When:** 5 p.m. to 2 a.m. daily

**Price:** Cocktails, \$7 to \$11

Lonnie Todd Moore [Owner]  
Adolfo Alejandro Suaya [Owner]  
Ryan Sweeney [Owner]  
Mike Malin [Owner]  
Brandon Bradford [Owner]  
Alan Aivazian [Owner]  
The Phoenix Los Angeles

Re: Notice of Unsafe Building; Municipal Code Violations  
14 N. La Cienega Blvd., Beverly Hills / City Case No. CE1302412  
June 5, 2013  
Page 22

### APPENDIX 3



CITY OF BEVERLY HILLS  
COMMUNITY DEVELOPMENT DEPARTMENT - CODE ENFORCEMENT DIVISION  
455 North Rexford Drive Beverly Hills, CA 90210  
TEL: 310.285.1119 FAX: 310.273.0972

## COMPLIANCE ORDER

Date: November 1 2012

Time: 2:38 PM

Case No.: CE 1228771

**LOCATION**

14 N. LaCienega Blvd.

**PROPERTY OWNER/RESPONSIBLE PERSON**

THE PHOENIX  
Lonnie Moore  
14 N. LaCienega Blvd.  
Beverly Hills, CA 90211

An inspection of the property for which you are responsible was conducted on November 1, 2012 at 2:38 P.M. where the following condition(s) in violation of the Beverly Hills Municipal Code were identified:

You are maintaining a new Business Identification Sign "THE PHOENIX". Records check show you do not have Architectural Commission Review for the Business Identification Sign. In addition you are operating your business past 11:00 pm contrary to your extended hours permit.

BHMC 10-3-3007(A)(1) No building, structure, sign, wall, fence, or landscaping located in any zone other than a single-family ( one-family) residential zone shall be erected, constructed, altered, or remodeled unless plans have been reviewed and approved by the Architectural Commission, or by the council on appeal.

IN ORDER TO BRING THE PROPERTY/CONDITION INTO COMPLIANCE, the following corrections are required, on or before the compliance date below:

Call 310.285.1141 and make appointment with a City Planner. Submit plans and application and apply for Architectural Commission Review. Approval for sign display, and within 20 days of obtaining approval, obtain a related sign(s) permit and display only approved signage. OR, remove all non-approved signs. Contact 310.285.1141 for questions on the Architectural Commission Review Approval application process. In addition, you would need to request a revision to your extended hours permit to stay open past 11:00 pm

COMPLIANCE DATE: NOVEMBER 30, 2012.

Attachments: BHMC 10-3-3007(A)(1), and photo

Failure to comply with this order within the specified time herein may result in the issuance of an Administrative Citation and a fine of \$108.00 for the first violation; \$214.10 for a second violation of the same Code provision within a twelve month period; and \$535.10 for each violation of the same Code provision within a twelve month period thereafter unless otherwise indicated below. Each day during which a violation is committed, continued, or permitted, the City may further assess a fine for each day from the date for compliance until the date the violation is fully corrected as determined by the Citing Official.

Citation Amount (if different from above) \$ \_\_\_\_\_ For questions regarding this compliance order, please call 310-285-1145

Type of Service  Personal  U.S. Mail  Posting  Publication

Issuing Official: Michael Manooch

Phone: 310-285-1145

Official's Signature

Date: November 5, 2012

Property Owner/Responsible Person:

Date:

CC:

Lonnie Todd Moore [Owner]  
 Adolfo Alejandro Suaya [Owner]  
 Ryan Sweeney [Owner]  
 Mike Malin [Owner]  
 Brandon Bradford [Owner]  
 Alan Aivazian [Owner]  
 The Phoenix Los Angeles  
 Re: Notice of Unsafe Building; Municipal Code Violations  
 14 N. La Cienega Blvd., Beverly Hills / City Case No. CE1302412  
 June 5, 2013  
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**BEVERLY HILLS FIRE DEPARTMENT**  
**FIRE PREVENTION BUREAU**  
 448 N. REXFORD DRIVE • BEVERLY HILLS, CA 90210 • (310)281-2773

PROVIDING NEW KNICK  
 KICKS FOR BDK

**INSPECTION NOTICE**

Occupancy Type: <input type="checkbox"/> OA <input type="checkbox"/> OB <input type="checkbox"/> OE <input type="checkbox"/> OF <input type="checkbox"/> OH <input type="checkbox"/> OI <input type="checkbox"/> OM <input type="checkbox"/> OR (DMFR / DRDFE) Number of Units: <u>03</u> # Stories: <u>1</u>	
<input type="checkbox"/> Sq. Ft. < 2,000 Sq. Ft. <input type="checkbox"/> Sq. Ft. 2001-4,000 Sq. Ft. <input type="checkbox"/> Sq. Ft. 4001-10,000 Sq. Ft. <input type="checkbox"/> Sq. Ft. > 10,000 Sq. Ft.           Business License: <input type="checkbox"/> DY <input type="checkbox"/> ON	
Address of Inspection: <u>14 N. LA CIENEGA</u>	Firm or HOA: <u>"THE PHOENIX"</u>
Owner/Agent: <u>2107 R. PAERL - OWNER</u>	Bus. Phone: <u>(310) 287-5775</u> Home Phone: ( ) _____
Address: <u>SAME</u>	City: <u>90210</u> State: <u>CA</u> ZIP: <u>90211</u>

Please consider this notice as an official Fire Department citation (15 day notice to correct, at which time a recheck will be made for compliance. If compliance has not been met after the period allotted in the Fire Department First Notice, a Second Notice will be issued. Concurrently, a \$61.00 penalty fee will be assessed to you. A subsequent recheck will be made, and if the conditions in violation are still found, a Final Notice and Order will be issued and a \$123.00 penalty fee will be assessed to you. A subsequent recheck will be made, and if the conditions are still found, the matter will be turned over to the City Attorney and an additional \$233.00 penalty will be assessed to you. Each additional recheck for compliance will bring a \$233.00 penalty fee. These rechecks may be made at five (5) day intervals. If you have been assessed a penalty fee for noncompliance, you will not have your violation notice stamped off as corrected until proof of payment is made.

Company: <input type="checkbox"/> OA <input type="checkbox"/> OB <input checked="" type="checkbox"/> OC <input type="checkbox"/> OFPQ	Inspected By: <u>DEAN HENRICH</u>	Received By: <u>Lonnie Todd Moore</u>	Date: <u>12/5/12</u>
<input type="checkbox"/> NO VIOLATIONS FOUND	Inspected By: _____	Received By: _____	Date: _____
<input type="checkbox"/> Second Notice <input type="checkbox"/> Corrected	Inspected By: _____	Received By: _____	Date: _____
<input type="checkbox"/> Final Notice <input type="checkbox"/> Corrected	Inspected By: _____	Received By: _____	Date: _____

Fire Protection Systems: Current TITLE 19 / 6 Year Certificate and Tag  DY  ON?  STANDPIPES    SPRINKLER SYSTEM:  Fully  Partial

**VIOLATIONS NOTED BELOW MUST BE CORRECTED**

<p><b>EXTINGUISHERS</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Reserve Fire Alarm System (required annually) performed by a licensed C10 contractor. <u>NOTES: SERVICE ANNUALLY</u></li> <li><input checked="" type="checkbox"/> Reserve food fire extinguisher system in kitchen hood duct. (required every 3 months) UL 300</li> <li><input checked="" type="checkbox"/> Reserve fire extinguishers (required annually) located <u>REAR DINING</u></li> <li><input checked="" type="checkbox"/> Extinguisher(s) shall be clearly visible with the handle located between 3'-6" from grade. <u>CLASS. 2-10'S</u></li> <li><input checked="" type="checkbox"/> Provide (1)UL approved fire extinguisher(s) to be located: <u>FRONT DINING</u></li> </ul> <p><b>EXITS</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Remove exit door(s) so as to be latched at all times, internally or externally.</li> <li><input type="checkbox"/> Remove obstructions from the exit ways at the following location(s):</li> <li><input type="checkbox"/> Repair/provide self-closing or automatic closing hardware so as to allow door(s) to close completely at following location(s):</li> <li><input checked="" type="checkbox"/> Thumb-operated devices, deadbolts, hooks, etc. are not permitted. Provide single action hardware for the door(s) located: <u>REAR DINING EXIT</u></li> </ul> <p><b>MAINTENANCE</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Building should be restored to pre-critical fire restore condition at the following location(s):</li> </ul> <p><b>HOUSEKEEPING</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Remove combustible storage located:</li> <li><input type="checkbox"/> Reduce the height of the storage to allow 24" clearance (31" below sprinklers) at the following location(s):</li> </ul> <p><b>ELECTRICAL</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Discontinue the use of ungrounded wiring at the following location(s):</li> <li><input checked="" type="checkbox"/> Service/repair emergency lighting at the following location(s): <u>THROUGHOUT → DEAD BATTERIES</u></li> </ul> <p><b>MISCELLANEOUS</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Provide to Beverly Hills Fire Prevention Bureau current Title 19 testing and certification documentation</li> <li><input type="checkbox"/> Install and maintain contrasting address numbers to be plainly visible and legible from the street fronting the property. Characters for residential 6' height for all others. (R-304 Amendment)</li> <li><input type="checkbox"/> Maintain a minimum 3 foot clear space around:           <ul style="list-style-type: none"> <li><input type="checkbox"/> Fire Dept. connections CFC 912.3</li> <li><input type="checkbox"/> Electrical panels CFC 605.3</li> <li><input type="checkbox"/> Gas heater or water heater CFC 305</li> </ul> </li> </ul> <p><b>ADDITIONAL COMMENTS</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> PROVIDE CLEAR ACCESS/MAKE VISIBLE → FIRE DEPT CONNECTIONS &amp; BACKFLOW PREVENT</li> <li><input checked="" type="checkbox"/> NEED BUILDING DEPT. APPROVAL OF DESIGN OCCUPANT LOAD AND EXISTING SYSTEM</li> <li><input checked="" type="checkbox"/> NEED MAXIMUM OCCUPANT LOAD SIGNAGE REVISIONS IN COMPLIANCE WITH</li> </ul>	<p>CFC 907.9</p> <p>CFC 904.11.8.2</p> <p>Title 19 Ch 3 Article 6</p> <p>CFC 906.9</p> <p>CFC 908</p> <p>CFC 1011</p> <p>CFC 1030</p> <p>CFC 703.2</p> <p>CFC 1006.1.9</p> <p>CFC 703.1</p> <p>CFC 315.1</p> <p>CFC 315.2.1</p> <p>CFC 605</p> <p>CFC 1008</p> <p>Title 19 Div 1, Chapter 6</p> <p>CFC 605.1</p>
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Form No FPB-1 (7/12)

Lonnie Todd Moore [Owner]  
 Adolfo Alejandro Suaya [Owner]  
 Ryan Sweeney [Owner]  
 Mike Malin [Owner]  
 Brandon Bradford [Owner]  
 Alan Aivazian [Owner]  
 The Phoenix Los Angeles  
 Re: Notice of Unsafe Building; Municipal Code Violations  
 14 N. La Cienega Blvd., Beverly Hills / City Case No. CE1302412  
 June 5, 2013  
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**CORRECTION NOTICE**  
 CITY OF BEVERLY HILLS  
 BUILDING & SAFETY DEPARTMENT

CONTRACTOR \_\_\_\_\_ DATE 7/11/13  
 ADDRESS \_\_\_\_\_ LICENSE # \_\_\_\_\_

JOB ADDRESS 14 N. LA CIENEGA PERMIT # \_\_\_\_\_

- ① REMOVE OUTDOOR DINING AT FRONT AREA OF RESTAURANT
- ② FRONT ENTRY DOORS MUST SWING IN THE DIRECTION OF EGRESS INTO FRONT
- ③ FRONT ENTRY ACCESS MUST BE 15' MIN WIDE AS ENTRY DOOR AND HAVE HANDRAILS INSTALLED
- ④ REAR EGRESS PATH MUST BE LEVEL, FREE OF TRIP HAZARDS AND CLEAR. STORED MATERIALS MUST BE SECURED FROM FALLING IN THE EGRESS PATHWAY AND GATES MUST BE SECURED OPEN
- ⑤ ~~REAR MAXIMUM DISCRETION SIGNAGE~~
- ⑥ REMOVE EXTENSION CORDS

CORRECT THE ABOVE NOTED ITEMS AND CALL BACK FOR REINSPECTION. DIAL (310) 285-2534.

INSPECTORS PHONE HOURS ARE 7:30-8:00AM & 4:00-5:00PM.

FOR THE CITY BUILDING OFFICIAL:

INSPECTOR MILLER (310) 285-1153

Lonnie Todd Moore [Owner]  
Adolfo Alejandro Suaya [Owner]  
Ryan Sweeney [Owner]  
Mike Malin [Owner]  
Brandon Bradford [Owner]  
Alan Aivazian [Owner]  
The Phoenix Los Angeles

Re: Notice of Unsafe Building; Municipal Code Violations  
14 N. La Cienega Blvd., Beverly Hills / City Case No. CE1302412

June 5, 2013

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**CORRECTION NOTICE**  
CITY OF BEVERLY HILLS  
BUILDING & SAFETY DEPARTMENT

CONTRACTOR \_\_\_\_\_ DATE 3/07/13  
ADDRESS \_\_\_\_\_  
LICENSE # \_\_\_\_\_

JOB ADDRESS 14 N. LA CIENEGA BL PERMIT # \_\_\_\_\_

- ① CORRECTIONS ISSUED 2/11/13 HAVE NOT BEEN COMPLETELY DEALT WITH.
- ② CONSTRUCTED HANDRAIL DOES NOT COMPLY WITH CODE REQUIREMENTS.
- ③ FIRE HOOPS IN STAIRWAY - ELIMINATE TRIP HAZARD
- ④ PER CORRECTION NOTICE ISSUED - ELIMINATE EXTENSION CORDS IN FACILITY

OTHER CODE VIOLATIONS HAVE BEEN OBSERVED. A WALK-THROUGH IS REQUIRED TO DISCUSS THESE ITEMS.

- ③ EMERGENCY LIGHT AT BAR IS INOPERABLE AND MUST BE REPAIRED IMMEDIATELY  
CONTACT THIS INSPECTOR TO COORDINATE A SITE MEETING.

CORRECT THE ABOVE NOTED ITEMS AND CALL BACK FOR REINSPECTION. DIAL (310) 285-2534.

INSPECTORS PHONE HOURS ARE 7:30-8:00AM & 4:00-5:00PM.

FOR THE CITY BUILDING OFFICIAL:

INSPECTOR MILLEN (310) 310 285-2534



# CITY OF BEVERLY HILLS Plan Review / Permit Application

- BUILDING / SHORING
- ELECTRICAL
- MECHANICAL
- PLUMBING
- SOLAR PANEL
- FIRE SPRINKLER
- FIRE ALARM
- POOL/SPA

- CERTIFICATE OF COMPLETION
- CERTIFICATE OF OCCUPANCY
- RIGHT-OF-WAY USE
- CONSTRUCTION PARKING
- WATER EFFICIENT LANDSCAPING
- DEMOLITION
- ROOFING
- BOND

- FRONT YARD PAVING
- FENCE / WALL
- SIGNAGE
- SANDBLASTING
- GRADING
- SECOND UNIT
- ELECTRIC VEHICLE

<b>PROJECT ADDRESS</b>			
<b>UNIT/SUITE</b>	<b>FLOOR</b>	<b>VALUATION (LABOR &amp; MATERIALS)</b>	
<b>DESCRIPTION OF WORK</b>			
<b>APPLICANT (REQUIRED)</b>			
<b>ADDRESS</b>			
<b>CITY</b>	<b>STATE</b>	<b>ZIP</b>	
<b>OFFICE PHONE</b>	<b>CELL PHONE</b>		
<b>E-MAIL (REQUIRED)</b>			
<b>OWNER (REQUIRED) <input type="checkbox"/> APPLICANT</b>			
<b>ADDRESS</b>			
<b>CITY</b>	<b>STATE</b>	<b>ZIP</b>	
<b>HOME PHONE</b>	<b>CELL PHONE</b>		
<b>E-MAIL (REQUIRED)</b>			
<b>CONTRACTOR (REQUIRED IF VALUATION IS \$500 +) <input type="checkbox"/> APPLICANT</b>			
<b>ADDRESS</b>			
<b>CITY</b>	<b>STATE</b>	<b>ZIP</b>	
<b>OFFICE PHONE</b>	<b>STATE LICENSE</b>	<b>EXPIR.</b>	
<b>E-MAIL (REQUIRED)</b>			
<b>ARCHITECT <input type="checkbox"/> APPLICANT</b>			
<b>ADDRESS</b>			
<b>CITY</b>	<b>STATE</b>	<b>ZIP</b>	
<b>OFFICE PHONE</b>	<b>STATE LICENSE</b>	<b>EXPIR.</b>	
<b>E-MAIL (REQUIRED)</b>			
<b>ENGINEER <input type="checkbox"/> APPLICANT</b>			
<b>ADDRESS</b>			
<b>CITY</b>	<b>STATE</b>	<b>ZIP</b>	
<b>OFFICE PHONE</b>	<b>STATE LICENSE</b>	<b>EXPIR.</b>	
<b>E-MAIL (REQUIRED)</b>			



# CITY OF BEVERLY HILLS Plan Review / Permit Application

## DECLARATIONS

### LICENSED CONTRACTOR'S DECLARATION

I hereby affirm under penalty of perjury that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Class \_\_\_\_\_ Lic. No. \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_

### OWNER-BUILDER DECLARATION

I hereby affirm under penalty of perjury that I am exempt from the Contractors' State License Law for the following reason (Sec. 7031.5, Business and Professions Code: Any city or county that requires a permit to construct, alter, improve, demolish, or repair any structure, prior to its issuance, also requires the applicant for the permit to file a signed statement that he or she is licensed pursuant to the provisions of the Contractors' State License Law (Chapter 9 commencing with Section 7000) of Division 3 of the Business and Professions Code) or that he or she is exempt therefrom and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars (\$500):

I, as owner of the property, or my employees with wages as their sole compensation, will do the work, and the structure is not intended or offered for sale (Sec. 7044, Business and Professions Code: The Contractors' State License Law does not apply to an owner of property who builds or improves thereon, and who does the work himself or herself or through his or her own employees, provided that the improvements are not intended or offered for sale. If, however, the building or improvement is sold within one year of completion, the owner-builder will have the burden of proving that he or she did not build or improve for the purpose of sale.)

I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Sec. 7044, Business and Professions Code: The Contractors' State License Law does not apply to an owner of property who builds or improves thereon, and who contracts for the project with a contractor(s) licensed pursuant to the Contractors' State License Law.)

I am exempt under Sec. \_\_\_\_\_, Bus. and Prof. Code, for this reason: \_\_\_\_\_

Owner Signature \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_

### ARCHITECT/ENGINEER DECLARATION

I am exempt from contractors' licensing laws under Sec. 7051, Bus. and Prof. Code for this reason: I am acting solely in my professional capacity.

Signature \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_

### WORKERS' COMPENSATION DECLARATION

I hereby affirm under penalty of perjury one of the following declarations:

I have and will maintain a certificate of consent to self-insure for workers' compensation, as provided for by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued.

I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My workers' compensation insurance carrier and policy number are:

Policy No. \_\_\_\_\_ Company \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_

Signature \_\_\_\_\_

### CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE

I certify that, in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and agree that, if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

Signature \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_

**WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.**

### CONSTRUCTION LENDING AGENCY

I hereby affirm under penalty of perjury that there is a construction lending agency for the performance of the work for which this permit is issued (Sec. 3097, Civ. Code).

Lender's Name and Address \_\_\_\_\_

### ASBESTOS DECLARATION (DEMOLITION)

(Health and Safety Sec. 19827.5)

Please mark the appropriate box and sign below.

The building to be demolished has been surveyed and it:  does  does not contain asbestos. A copy of the notification form as required by SCAQMD Rule 1403 is enclosed.

The building contained asbestos and the abatement work has been completed. A copy of the completion certificate is enclosed.  
Owner or Agent \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_

I certify that I have read this application and state that the above information is correct. I agree to comply with all city and county ordinances and state laws relating to building construction, and hereby authorize representatives of this City and County to enter upon the above-mentioned property for inspection purposes.

Signature of Applicant or Agent \_\_\_\_\_ Print Name \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_